Laws & Regulations

Relating to the Practice of Physician Assistants

Issued by the

Physician Assistant Board

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PHYSICIAN ASSISTANT PRACTICE ACT

AS CONTAINED IN
DIVISION 2, CHAPTER 7.7
BUSINESS AND PROFESSIONS CODE

and

PHYSICIAN ASSISTANT REGULATIONS

AS CONTAINED IN
TITLE 16, DIVISION 13.8
CALIFORNIA CODE OF REGULATIONS

Issued by the

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The booklet is a compilation of the applicable laws and regulations regarding the practice of physician assistants. While every effort has been made to ensure that the booklet is current and accurate, readers are advised that the applicable laws and regulations are subject to revision. Should any difference or discrepancy occur, duly enacted laws or regulations shall take precedence over the information contained herein.

The Business and Professions Code may be accessed at http://leginfo.legislature.ca.gov/.
The California Code of Regulations may be accessed at
https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=%28sc.Default%29.

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Chapter 7.7. Physician Assistants

(Title amended by Stats. 1992, Ch. 427.)

Article 1. General Provisions

§ 3500. Legislative Intent

In its concern with the growing shortage and geographic maldistribution of health care services in California, the Legislature intends to establish in this chapter a framework for another category of health manpower—the physician assistant.

The purpose of this chapter is to encourage the effective utilization of the skills of physicians and surgeons, and physicians and surgeons and podiatrists practicing in the same medical group practice, by enabling them to work with qualified physician assistants to provide quality care.

This chapter is established to encourage the coordinated care between physician assistants, physicians and surgeons, podiatrists, and other qualified health care providers practicing in the same medical group, and to provide health care services. It is also the purpose of this chapter to allow for innovative development of programs for the education, training, and utilization of physician assistants.

(Amended by Stats. 2019, Ch. 707, § 1 (SB 697), eff. January 1, 2020.)

§ 3500.5. Title

This chapter shall be known and cited as the Physician Assistant Practice Act.

(Amended by Stats. 1989, Ch. 1104. § 1.9.)

§ 3501. Definitions

As used in this chapter:

(a) "Board" means the Physician Assistant Board.

(b) "Approved program" means a program for the education of physician assistants that has been formally approved by the board.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician assistant" or "PA" means a person who meets the requirements of this chapter and is licensed by the board.

(e) "Supervising physician" or "supervising physician and surgeon" means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation prohibiting the employment or supervision of a physician assistant.

(f)(1) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant. Supervision, as defined in this subdivision, shall not be construed to require the physical presence of the physician and surgeon, but does require the following:

(A) Adherence to adequate supervision as agreed to in the practice agreement.

(B) The physician and surgeon being available by telephone or other electronic communication method at the time the PA examines the patient.

(2) Nothing in this subdivision shall be construed as prohibiting the board from requiring the physical presence of a physician and surgeon as a term or condition of a PA's reinstatement, probation, or imposing discipline.

(g) "Regulations" means the rules and regulations as set forth in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

(h) "Routine visual screening" means noninvasive, nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

(i) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

(j) "Organized health care system" includes a licensed clinic as described in Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, an outpatient setting as described in Chapter 1.3 (commencing with Section 1248) of Division 2 of the Health and Safety Code, a health facility as described in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, a county medical facility as described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code, an accountable care organization, a home health agency, a physician's office, a professional medical corporation, a medical partnership, a medical foundation, and any other entity that lawfully provides medical services and is in compliance with Article 18 (commencing with Section 2400) of Chapter 5.

(k) "Practice agreement" means the writing, developed through collaboration among one or more physicians and surgeons and one or more physician assistants, that defines the medical services the physician assistant is authorized to perform pursuant to Section 3502 and that grants approval for physicians and surgeons on the staff of an organized health care system to supervise one or more physician assistants in the organized health care system. Any reference to a delegation of services agreement relating to physician assistants in any other law shall have the same meaning as a practice agreement.

(l) "Other specified medical services" means tests or examinations performed or ordered by a PA practicing in compliance with this chapter or regulations of the board or the Medical Board of California promulgated under this chapter.

(Amended by Stats. 2019, Ch. 707, § 2 (SB 697), eff. January 1, 2020.)

§ 3502. Services

(a) Notwithstanding any other law, a PA may perform medical services as authorized by this chapter if the following requirements are met:

(1) The PA renders the services under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California or by the Osteopathic Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant.

(2) The PA renders the services pursuant to a practice agreement that meets the requirements of Section 3502.3.

(3) The PA is competent to perform the services.

(4) The PA's education, training, and experience have prepared the PA to render the services.

(b) (1) Notwithstanding any other law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician and surgeon. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from a supervising physician and surgeon.

(2) A supervising physician and surgeon shall be available to the physician assistant for consultation when assistance is rendered pursuant to this subdivision. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties included within the scope of practice of a doctor of podiatric medicine.

(c) Nothing in regulations shall require that a physician and surgeon review or countersign a medical record of a patient treated by a physician assistant, unless required by the practice agreement. The board may, as a condition of probation or reinstatement of a licensee, required the review or countersignature of records of patients treated by a physician assistant for a specified duration.

(d) This chapter does not authorize the performance of medical services in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

(f) Notwithstanding any other law, a PA rendering services in general acute care hospital as defined in Section 1250 of the Health and Safety Code shall be supervised by a physician and surgeon with privileges to practice in that hospital. Within a general acute care hospital, the practice agreement shall establish policies and procedures to identify a physician and surgeon who is supervising the PA.

(Amended by Stats. 2019, Ch. 707, § 3 (SB 697), eff. January 1, 2020.)

§ 3502.1. Prescription Transmittal Authority

In addition to the medical services authorized in the regulations adopted pursuant to Section 3502, and except as prohibited by Section 3502 a PA may furnish or order a drug or device subject to all of the following:

(a) The PA shall furnish or order a drug or device in accordance with the practice agreement and consistent with the PA's educational preparation or for which clinical competency has been established and maintained.

(b) (1) A practice agreement authorizing a PA to order or furnish a drug or device shall specify which PA or PAs may furnish or order a drug or device, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the PA's competence, including peer review, and review of the practice agreement.

(2) In addition to the requirements in paragraph (1), if the practice agreement authorizes the PA to furnish a Schedule II controlled substance, the practice agreement shall address the diagnosis of the illness, injury, or condition for which the PA may furnish the Schedule II controlled substance.

(c) The PA shall furnish or order drugs or devices under physician and surgeon supervision. This subdivision shall not be construed to require the physical presence of the physician and surgeon, but does require the following:

(1) Adherence to adequate supervision as agreed to in the practice agreement.

(2) The physician and surgeon be available by telephone or other electronic communication method at the time the PA examines the patient.

(d) (1) Except as provided in paragraph (2), the PA may furnish or order only those Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) that have been agreed upon in the practice agreement.

(2) The PA may furnish or order Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, in accordance with the practice agreement or a patient-specific order approved by the treating supervising physician and surgeon.

(e) (1) The PA has satisfactorily completed a course in pharmacology covering the drugs or devices to be furnished or ordered under this section or has completed a program for instruction of PAs that meet the requirements of Section 1399.530 of Title 16 of the California Code of Regulations, as that provision read on June 7, 2019.

(2) A physician and surgeon through a practice agreement may determine the extent of supervision necessary pursuant to this section in the furnishing or ordering of drugs and devices.

(3) PAs who hold an active license, who are authorized through a practice agreement to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, and who have not successfully completed a one-time course in compliance with Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, as those provisions read on June 7, 2019, shall complete, as part of their continuing education requirements, a course that covers Schedule II controlled substances, and the risks of addiction associated with their use, based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision. Evidence of completion of a course meeting the standards, including pharmacological content, established in Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, as those provisions read on June 7, 2019, shall be deemed to meet the requirements of this section.

(f) For purposes of this section:

(1) "Furnishing" or "ordering" shall include the following:

(A) Ordering a drug or device in accordance with the practice agreement.

(B) Transmitting an order of a supervising physician and surgeon.

(C) Dispensing a medication pursuant to Section 4170.

(2) "Drug order" or "order" means an order for medication that is dispensed to or for an ultimate user, issued by a PA as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations.

(g) Notwithstanding any other law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of a supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants; and (3) the signature of a PA on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(Amended by Stats. 2019, Ch. 707, § 4 (SB 697), eff. January 1, 2020.)

§ 3502.1.5. Administering, Providing, or Transmitting Order for Buprenorphine

This chapter or any other provision of law shall not be construed to prohibit a physician assistant from administering or providing buprenorphine to a patient, or transmitting orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish buprenorphine when done in compliance with the provisions of the Comprehensive Addiction Recovery Act (Public Law 114-198), as enacted on July 22, 2016, including the following:

(a) The requirement that the physician assistant complete not fewer than 24 hours of initial training provided by an organization listed in sub-subclause (aa) of subclause (II) of clause (iv) of subparagraph (G) of paragraph (2) of subdivision (g) of Section 823 of Title 21 of the United States Code, or any other organization that the United States Secretary of Health and Human Services determines is appropriate for the purposes of that sub-subclause, that addresses the following:

(1) Opioid maintenance and detoxification.

(2) Appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of opioid use disorder.

(3) Initial and periodic patient assessments, including substance use monitoring.

(4) Individualized treatment planning, overdose reversal, and relapse prevention.

(5) Counseling and recovery support services.

(6) Staffing roles and considerations.

(7) Diversion control.

(8) Other best practices, as identified by the United States Secretary of Health and Human Services.

(b) The alternative requirement that the physician assistant have other training or experience that the United States Secretary of Health and Human Services determines will demonstrate the ability of the physician assistant to treat and manage opiate-dependent patients.

(c) The requirement that the physician assistant be supervised by, or work in collaboration with, a licensed physician and surgeon.

(Amended by Stats. 2018, Ch. 92, § 2 (SB 1289), eff. January 1, 2019.)

§ 3502.2. Physical Examinations

Notwithstanding any other provision of law, a physician assistant may perform the physical examination and any other specified medical services that are required pursuant to Section 2881 of the Public Utilities Code and Sections 44336, 49406, 49423, 49455, 87408, 87408.5, and 87408.6 of the Education Code, practicing in compliance with this chapter, and may sign and attest to any certificate, card, form, or other documentation evidencing the examination or other specified medical services.

(Added by Stats. 2010, Ch. 512, § 2 (SB 1069), eff. January 1, 2011.)

§ 3502.3. Practice Agreement

(a) (1) A practice agreement shall include provisions that address the following:

(A) The types of medical services a physician assistant is authorized to perform.

(B) Policies and procedures to ensure adequate supervision of the physician assistant, including, but not limited to, appropriate communication, availability, consultations, and referrals between a physician and surgeon and the physician assistant in the provision of medical services.

(C) The methods for the continuing evaluation of the competency and qualifications of the physician assistant.

(D) The furnishing or ordering of drugs or devices by a physician assistant pursuant to Section 3502.1.

(E) Any additional provisions agreed to by the physician assistant and physician and surgeon.

(2) A practice agreement shall be signed by both of the following:

(A) The physician assistant.

(B) One or more physicians and surgeons or a physician and surgeon who is authorized to approve the practice agreement on behalf of the staff of the physicians and surgeons on the staff of an organized health care system.

(3) A delegation of services agreement in effect prior to January 1, 2020, shall be deemed to meet the requirements of this subdivision.

(4) A practice agreement may designate a PA as an agent of a supervising physician and surgeon.

(5) Nothing in this section shall be construed to require approval of a practice agreement by the board.

(b) Notwithstanding any other law, in addition to any other practices that meet the general criteria set forth in this chapter or regulations adopted by the board or the Medical Board of California, a practice agreement may authorize a PA to do any of the following:

(1) Order durable medical equipment, subject to any limitations set forth in Section 3502 or the practice agreement. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payer to require prior approval.

(2) For individuals receiving home health services or personal care services, after consultation with a supervising physician and surgeon, approve, sign, modify, or add to a plan of treatment or plan of care.

(3) After performance of a physical examination by the PA under the supervision of a physician and surgeon consistent with this chapter, certify disability pursuant to Section 2708 of the Unemployment Insurance Code. The Employment Development Department shall implement this paragraph on or before January 1, 2017.

(c) This section shall not be construed to affect the validity of any practice agreement in effect prior to the effective date of this section or those adopted subsequent to the effective date of this section.

(Amended by Stats. 2019, Ch. 707, § 5 (SB 697), eff. January 1, 2020.)

§ 3502.35. Legislative Review of Practice Agreements

(a) It is the intent of the Legislature that, in recognition of the vital role physician assistants play in delivering safe, effective, and accessible health care across California, a comprehensive review of practice agreement structures be undertaken in consultation with relevant stakeholders. This review should consider how practice agreements are utilized in other states and evaluate their potential benefits or detriments to patient care, workforce efficiency, and regulatory oversight.

(b) This section shall not be construed to impose any additional regulatory responsibilities or workload on the board. The board may collaborate, as appropriate, with the Legislature and other stakeholders to inform future policy discussions through existing processes and expertise.

(Added by Stats. 2025, Ch. 194, Sec. 9. (AB 1501) Effective January 1, 2026.)

§ 3502.4. Requirements for Performing Abortion by Aspiration Techniques

(a) In order to receive authority from the physician assistant's supervising physician and surgeon to perform an abortion by aspiration techniques pursuant to Section 2253, a physician assistant shall achieve clinical competency by successfully completing requisite training in performing these procedures. The requisite training shall include a clinical and didactic component and be provided by any of the following:

(1) Training programs approved by the board pursuant to Section 3513.

(2) Training to perform medical services that augment the physician assistant's current areas of competency pursuant to Section 1399.543 of Title 16 of the California Code of Regulations.

(3) A course offered by a state or national health care professional or accreditation organization.

(4) Training based on the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 171 through the Office of Statewide Health Planning and Development, now known as the Department of Health Care Access and Information.

(5) Training and evaluation of clinical competency, performed at a clinic or hospital, on performing abortion by aspiration techniques that is provided by any of the following who have performed the procedure themselves:

(A) A physician and surgeon.

(B) A nurse practitioner or certified nurse midwife authorized to perform abortion by aspiration techniques pursuant to Section 2725.4.

(C) A physician assistant authorized to perform abortion by aspiration techniques pursuant to this section.

(b) A physician assistant who has completed training and achieved clinical competency, as required by this section, and is functioning pursuant to Section 3502 shall be authorized to perform abortions by aspiration techniques pursuant to Section 2253 without the personal presence of a supervising physician and surgeon unless specified by their practice agreement.

(c) A physician assistant shall practice abortion by aspiration techniques pursuant to Section 2253 consistent with applicable standards of care, within the scope of their clinical and professional education and training, and pursuant to their practice agreement.

(d) It is unprofessional conduct for any physician assistant to perform an abortion by aspiration techniques pursuant to Section 2253 without prior completion of training and validation of clinical competency.

(e) A person authorized to perform abortion by aspiration techniques described in paragraph (5) of subdivision (a) shall not be punished, held liable for damages in a civil action, or denied any right or privilege for any action relating to the evaluation of clinical competency of a physician assistant pursuant to paragraph (5) of subdivision (a).

(f) This section shall not be interpreted to authorize a person with a license or certificate to practice as a physician assistant to perform abortion by aspiration techniques after the first trimester of pregnancy.

(g) For purposes of this section, exclusively online or simulation-based training programs that do not include mandatory clinical hours involving direct patient care shall not meet the clinical training requirements in subdivision (a).

(Amended by Stats. 2023, Ch. 178, Sec. 1. (SB 385) Effective January 1, 2024.)

§ 3502.5. State of Emergency

Notwithstanding any other provision of law, a physician assistant may perform those medical services permitted pursuant to Section 3502 during any state of war emergency, state of emergency, or state of local emergency, as defined in Section 8558 of the Government Code, and at the request of a responsible federal, state, or local official or agency, or pursuant to the terms of a mutual aid operation plan established and approved pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), regardless of whether the physician assistant's approved supervising physician is available to supervise the physician assistant, so long as a licensed physician is available to render the appropriate supervision. "Appropriate supervision" shall not require the personal or electronic availability of a supervising physician if that availability is not possible or practical due to the emergency. The local health officers and their designees may act as supervising physicians during emergencies without being subject to approval by the Medical Board of California. At all times, the local health officers or their designees supervising the physician assistants shall be licensed physicians and surgeons. Supervising physicians acting pursuant to this section shall not be subject to the limitation on the number of physician assistants supervised under Section 3516.

No responsible official or mutual aid operation plan shall invoke this section except in the case of an emergency that endangers the health of individuals. Under no circumstances shall this section be invoked as the result of a labor dispute or other dispute concerning collective bargaining.

(Amended by Stats. 2012, Ch. 332, § 30 (SB 1236), eff. January 1, 2013.)

§ 3503. Limitation

No person other than one who has been licensed to practice as a physician assistant shall practice as a physician assistant or in a similar capacity to a physician and surgeon or podiatrist or hold themselves out as a "physician assistant," or shall use any other term indicating or implying that they are a physician assistant.

(Amended by Stats. 2024, Ch. 497, Sec. 17. (SB 1526) Effective January 1, 2025.)

§ 3503.5. Immunity from Liability

(a) A person licensed under this chapter who in good faith renders emergency care at the scene of an emergency that occurs outside both the place and course of that person's employment shall not be liable for any civil damage as a result of any acts or omissions by that person in rendering the emergency care.

(b) This section shall not be construed to grant immunity from civil damages to any person whose conduct in rendering emergency care is grossly negligent.

(c) In addition to the immunity specified in subdivision (a), the provisions of Article 17 (commencing with Section 2395) of Chapter 5 shall apply to a person licensed under this chapter when acting pursuant to delegated authority from an approved supervising physician.

(Added by Stats. 1998, Ch. 736, § 26, eff. January 1, 1999.)

Article 2. Administration

§ 3504. Physician Assistant Board

(a) There is established a Physician Assistant Board. The board consists of nine members.

(b) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

(Amended by Stats. 2025, Ch. 194, Sec. 10. (AB 1501) Effective January 1, 2026. Repealed as of January 1, 2030, by its own provisions.)

§ 3504.1. Protection of the Public

Protection of the public shall be the highest priority for the Physician Assistant Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(Amended by Stats. 2012, Ch. 332, § 32 (SB 1236), eff. January 1, 2013.)

§ 3504.2. Legislative Review

Notwithstanding any other law, the repeal of Section 3504 renders the board subject to review by the appropriate policy committee of the Legislature.

(Added by Stats. 2025, Ch. 194, Sec. 11. (AB 1501) Effective January 1, 2026.)

§ 3505. Composition

The members of the board shall include four physician assistants, one physician and surgeon who is also a member of the Medical Board of California, and four public members. Upon the expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a physician assistant. Upon the expiration of the term of the member who is a member of the Medical Board of California, above, there shall be appointed to the board a physician and surgeon who is also a member of the Medical Board of California who shall serve as an ex officio, nonvoting member and whose functions shall include reporting to the Medical Board of California on the actions or discussions of the board. Following the expiration of the term of the member described above, the board shall include five physician assistants, one physician and surgeon, and four public members.

Each member of the board shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section and two public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

(Amended by Stats. 2012, Ch. 332, § 33 (SB 1236), eff. January 1, 2013.)

§ 3506. Compensation

Each member of the board shall receive a per diem and expenses as provided in Section 103.

(Amended by Stats. 2012, Ch. 332, § 34 (SB 1236), eff. January 1, 2013.)

§ 3507. Removal

The appointing power has power to remove from office any member of the board, as provided in Section 106.

(Amended by Stats. 2012, Ch. 332, § 35 (SB 1236), eff. January 1, 2013.)

§ 3508. Meetings

(a) The board may convene from time to time as deemed necessary by the board.

(b) Notice of each meeting of the board shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving such notification.

(c) The board shall receive permission of the director to meet more than six times annually. The director shall approve meetings that are necessary for the board to fulfill its legal responsibilities.

(Amended by Stats. 2012, Ch. 332, § 36 (SB 1236), eff. January 1, 2013.)

§ 3509. Duties of Board

It shall be the duty of the board to:

(a) Establish standards for, and issue licenses to, applicants qualifying for licensure under this chapter as a physician assistant.

(b) Require the examination of applicants for licensure as a physician assistant who meet the requirements of this chapter.

(Amended by Stats. 2025, Ch. 194, Sec. 12. (AB 1501) Effective January 1, 2026.)

§ 3509.5. Officers

The board shall elect annually a president and a vice president from among its members.

(Amended by Stats. 2015, Ch. 426, § 33 (SB 800), eff. January 1, 2016.)

§ 3510. Regulations

The board may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this chapter. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2021, Ch. 649, § 34 (SB 806), eff. January 1, 2022.)

§ 3511. Quorum; Votes Required

Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the board shall be required to carry any motion. The physician and surgeon who serves as an ex officio member shall not be counted for purposes of a quorum.

(Amended by Stats. 2012, Ch. 332, § 40 (SB 1236), eff. January 1, 2013.)

§ 3512. Personnel

(a) Except as provided in Sections 159.5 and 2020, the board shall employ within the limits of the Physician Assistant Fund all personnel necessary to carry out this chapter including an executive officer who shall be exempt from civil service. The board shall make all necessary expenditures to carry out this chapter from the funds established by Section 3520. The board may accept contributions to effect the purposes of this chapter.

(b) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2021, Ch. 649, Sec. 35. (SB 806) Effective January 1, 2022. Repealed as of January 1, 2026, by its own provisions.)

Article 3. Certification and Approval

§ 3513. Duties of Board

The board shall recognize the approval of training programs for physician assistants approved by a national accrediting organization. Physician assistant training programs accredited by a national accrediting agency approved by the board shall be deemed approved by the board under this section.

(Amended by Stats. 2025, Ch. 194, Sec. 13. (AB 1501) Effective January 1, 2026.)

§ 3514.1. Guidelines for Licensure and Training Program Approval

The board shall formulate by regulation guidelines for the consideration of applications for licensure as a physician assistant.

(Amended by Stats. 2025, Ch. 194, Sec. 14. (AB 1501) Effective January 1, 2026.)

§ 3516. Supervisor's Limitations

(a) Notwithstanding any other law, a physician assistant licensed by the board shall be eligible for employment or supervision by a physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that employment or supervision.

(b) Except as provided in Section 3502.5, a physician and surgeon shall not supervise more than eight physician assistants at any one time.

(c) The Medical Board of California may restrict a physician and surgeon to supervising specific types of physician assistants including, but not limited to, restricting a physician and surgeon from supervising physician assistants outside of the field of specialty of the physician and surgeon.

(Amended by Stats. 2025, Ch. 194, Sec. 15. (AB 1501) Effective January 1, 2026.)

§ 3516.5. Emergency Care Programs—Repealed

§ 3517. Examination

(a) The board shall require a written examination of physician assistants in the manner and under the rules and regulations as it shall prescribe, but the examination shall be conducted in that manner as to ensure that the identity of each applicant taking the examination will be unknown to all of the examiners until all examination papers have been graded. Except as otherwise provided in this chapter, or by regulation, no physician assistant applicant shall receive approval under this chapter without first successfully passing an examination given under the direction of the board.

(b) Examinations for licensure as a physician assistant may be required by the board under a uniform examination system, and for that purpose the board may make those arrangements with organizations furnishing examination material as may, in its discretion, be desirable. The licensure examination for physician assistants shall be held by the board at least once a year with such additional examinations as the board deems necessary.

(Amended by Stats. 2021, Ch. 649, § 36 (SB 806), eff. January 1, 2022.)

§ 3518. Registers

The board shall keep a current register for licensed PAs, if applicable. The register shall show the name of each licensee, the licensee's last known address of record, and the date of the licensee's licensure. Any interested person is entitled to obtain a copy of the register in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) upon application to the board together with a sum as may be fixed by the board, which amount shall not exceed the cost of this list so furnished.

(Amended by Stats. 2019, Ch.707, § 9 (SB 697), eff. January 1, 2020.)

§ 3518.1. Licensees: Data Collection—Repealed

§ 3519. Requirements for Licensure

The board shall issue a license to all physician assistant applicants who meet all of the following requirements:

(a) Provide evidence of successful completion of an approved program.

(b) Pass any examination required under Section 3517.

(c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.

(d) Pay all fees required under Section 3521.1.

(Amended by Stats. 2021, Ch. 649, § 37 (SB 806), eff. January 1, 2022.)

§ 3519.5. Probationary License

(a) The board may issue a probationary license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the applicant's activities shall be supervised by another physician assistant.

(2) Total or partial restrictions on issuing a drug order for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical services.

(8) Compliance with all provisions of this chapter.

(b) The board may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the board.

These proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2021, Ch. 649, § 38 (SB 806), eff. January 1, 2022.)

Article 4. Revenue

§ 3520. Report to Controller

Within 10 days after the beginning of each calendar month, the board shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund shall be available, upon appropriation of the Legislature, to carry out the purpose of this chapter.

(Amended by Stats. 2022, Ch. 511, Sec. 16. (SB 1495) Effective January 1, 2023.)

§ 3521. Fees—Supervising Physician—Repealed

§ 3521.1. Fees—Physician Assistant

The fees to be paid by physician assistants are to be set by the board as follows:

(a) An application fee charged to each physician assistant applicant shall be sixty dollars ($60) and may be increased to not more than eighty dollars ($80).

(b) An initial license fee charged to each physician assistant to whom a license is issued shall be two hundred fifty dollars ($250) and may be increased to not more than five hundred dollars ($500).

(c) A biennial license renewal fee charged to each physician assistant who holds a license shall be three hundred dollars ($300) and may be increased to not more than five hundred dollars ($500).

(d) The delinquency fee is seventy-five dollars ($75).

(e) The duplicate license fee is ten dollars ($10).

(f) The fee for a letter of endorsement, letter of good standing, or letter of verification of licensure shall be fifty dollars ($50).

(Amended by Stats. 2025, Ch. 194, Sec. 16. (AB 1501) Effective January 1, 2026.)

§ 3521.3. Retired Status

(a) The board may establish, by regulation, a system for the placement of a license on a retired status, upon application, for a physician assistant who is not actively engaged in practice as a physician assistant or any activity that requires them to be licensed by the board.

(b) No licensee with a license on a retired status shall engage in any activity for which a license is required.

(c) The board shall deny an applicant's application for a retired status license if the license is canceled or if the license is suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(d) Beginning one year from the effective date of the regulations adopted pursuant to subdivision (a), if an applicant's license is delinquent, the board shall deny an applicant's application for a retired status license.

(e) The board shall establish minimum qualifications for a retired status license.

(f) The board may exempt the holder of a retired status license from the renewal requirements described in Section 3524.5.

(g) The board shall establish minimum qualifications for the restoration of a license in a retired status to an active status. These minimum qualifications shall include, but are not limited to, continuing education and payment of a fee as provided in subdivision (c) of Section 3521.1.

(Added by Stats. 2012, Ch.332, § 54 (SB 1236), eff. January 1, 2013.)

§ 3521.5. Report to Legislature—Repealed

§ 3522. Approval Renewal—Supervising Physician—Repealed

§ 3523. Birthdate Renewal—Physician Assistant

All physician assistant licenses shall expire at 12 midnight of the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The board shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates and a pro rata formula for the payment of renewal fees by physician assistants affected by the implementation of the program.

To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on an electronic form, or other form, provided by the board, accompanied by the prescribed renewal fee. Each application form shall contain a legal verification by the applicant certifying under penalty of perjury that the information provided by the applicant is true and correct.

(Amended by Stats. 2025, Ch. 194, Sec. 18. (AB 1501) Effective January 1, 2026.)

§ 3524. Renewal of Expired License or Approval

A license or approval that has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board and payment of all accrued and unpaid renewal fees. If the license or approval is not renewed within 30 days after its expiration, the licensed physician assistant and approved supervising physician, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

(Amended by Stats. 2021, Ch. 649, § 40 (SB 806), eff. January 1, 2022.)

§ 3524.5. Continuing Education

(a) The board may require a licensee to complete continuing education as a condition of license renewal under Section 3523 or 3524. The board shall not require more than 50 hours of continuing education every two years. The board shall, as it deems appropriate, accept certification by the National Commission on Certification of Physician Assistants (NCCPA), or another qualified certifying body, as determined by the board, as evidence of compliance with continuing education requirements.

(b) (1) The board shall adopt regulations to require that, on and after January 1, 2022, all continuing education courses for licensees under this chapter contain curriculum that includes the understanding of implicit bias.

(2) Beginning January 1, 2023, continuing education providers shall ensure compliance with paragraph (1).

(3) Beginning January 1, 2023, the board shall audit continuing education providers at least once every five years to ensure adherence to regulatory requirements, and shall withhold or rescind approval from any provider that is in violation of the regulatory requirements.

(c) Notwithstanding the provisions of subdivision (b), a continuing education course dedicated solely to research or other issues that does not include a direct patient care component is not required to contain curriculum that includes implicit bias in the practice of physician assistants.

(d) In order to satisfy the requirements of subdivision (a), continuing education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physician assistants, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decisionmaking may contribute to health care disparities by shaping behavior and producing differences in medical treatment along lines of race, ethnicity, gender identity, sexual orientation, age, socioeconomic status, or other characteristics.

(e) (1) In determining its continuing education requirements, the board shall consider including a course in menopausal mental or physical health.

(2) In determining its continuing education requirements, the board shall consider including a course in maternal mental health.

(Amended by Stats. 2024, Ch. 836, Sec. 3.5. (AB 2581) Effective January 1, 2025.)

§ 3524.6. Mandatory Continuing Education

A physician assistant who provides primary care to a patient population of which over 25 percent are 65 years of age or older shall complete at least 20 percent of all mandatory continuing education hours in a course in the field of geriatric medicine, the special care needs of patients with dementia, or the care of older patients.

(Added by Stats. 2024, Ch. 336, Sec. 3. (SB 639) Effective January 1, 2025.)

§ 3524.7. Board Consideration for Continuing Education

In determining its continuing education requirements, the board shall consider including a course in infection-associated chronic conditions, including, but not limited to, long COVID, as defined by the United States Department of Health and Human Services, myalgic encephalomyelitis, and dysautonomia.

(Added by Stats. 2024, Ch. 433, Sec. 4. (AB 3119) Effective January 1, 2025.)

§ 3525. Suspended License

A suspended license is subject to expiration and shall be renewed as provided in this chapter. However, such renewal does not entitle such holder, to practice or otherwise violate the order or judgment by which the license was suspended.

A revoked license is subject to expiration as provided in this chapter. If the license is reinstated after expiration, the license holder, as a condition to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated.

(Amended by Stats. 1988, Ch. 1448, § 1.7.)

§ 3526. Failure to Renew Within Five Years

A person who fails to renew their license or approval within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored after that time has elapsed, but that person may apply for and obtain a new license or approval if they:

(a) Have not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Take and pass the examination, if any, that would be required of them if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, they are qualified to practice as a physician assistant.

(c) Pay all of the fees that would be required as if application for licensure was being made for the first time.

(Amended by Stats. 2024, Ch. 497, Sec. 18. (SB 1526) Effective January 1, 2025.)

Article 5. Denial, Suspension and Revocation

§ 3527. Causes for Denial, Suspension or Revocation

(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a PA license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board.

(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, a PA license, after a hearing as required in Section 3528 for unprofessional conduct that includes, except for good cause, the knowing failure of a licensee to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Osteopathic Medical of California, the Podiatric Medical Board of California, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(d) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

(e) The expiration, cancellation, forfeiture, or suspension of a PA license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

(Amended by Stats. 2021, Ch. 649, § 41 (SB 806), eff. January 1, 2022.)

§ 3527.5. Performing an Abortion

(a) The board shall not suspend or revoke the license of a physician assistant solely for performing an abortion if the licensee performed the abortion in accordance with the provisions of this chapter and the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(b) Notwithstanding any other law, including, but not limited to, Sections 141, 480, 490, and 3527, the board shall not deny an application for licensure as a physician assistant, or suspend, revoke, or otherwise impose discipline upon a person licensed in this state as a physician assistant under either of the following circumstances:

(1) The person is licensed or certified to practice as a physician assistant in another state and was disciplined in that state solely for performing an abortion in that state.

(2) The person is licensed or certified to practice as a physician assistant in another state and was convicted in that state for an offense related solely to the performance of an abortion in that state.

(Added by Stats. 2023, Ch. 178, Sec. 2. (SB 385) Effective January 1, 2024.)

§ 3528. Proceedings

Any proceedings involving the denial, suspension, or revocation of the application for licensure or the license of a PA, the application for approval or the approval of an approved program under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2019, Ch. 707, § 13 (SB 697), eff. January 1, 2020.)

§ 3529. Jurisdiction Over Disciplinary Matters

The board may hear any matters filed pursuant to subdivisions (a) and (b) of Section 3527, or may assign the matter to a hearing officer. The Medical Board of California may hear any matters filed pursuant to subdivision (c) of Section 3527, or may assign the matter to a hearing officer. If a matter is heard by the board or the Medical Board of California, the hearing officer who presided at the hearing shall be present during the board's or the Medical Board of California's consideration of the case, and, if requested, assist and advise the board or the Medical Board of California.

(Amended by Stats. 2012, Ch. 332, § 62 (SB 1236), eff. January 1, 2013.)

§ 3530. Reinstatement; Modification of Probation

(a) A person whose license or approval has been revoked or suspended, or who has been placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or approval revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination of probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license or approval revoked for mental or physical illness, or termination of probation of less than three years.

(b) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physicians licensed either by the Medical Board of California or the Osteopathic Medical Board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the board that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The board or the administrative law judge hearing the petition, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the board or administrative law judge finds necessary.

(e) The board or administrative law judge, when hearing a petition for reinstating a license or approval or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter Sections 822 and 823.

(Amended by Stats. 2021, Ch. 649, § 42 (SB 806), eff. January 1, 2022.)

§ 3531. Conviction of Crime

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense that is substantially related to the qualifications, functions, or duties of the business or profession to which the license was issued is deemed to be a conviction within the meaning of this chapter. The board may order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(Amended by Stats. 2024, Ch. 497, Sec. 19. (SB 1526) Effective January 1, 2025.)

Article 6. Penalties

§ 3532. Penalty for Violation

Any person who violates Section 3502, 3503, 3515, or 3516 shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

(Amended by Stats. 1983, Ch. 1092, § 13 eff. September 27, 1983. Operative January 1, 1984, by § 427 of Ch. 1092.)

§ 3533. Injunction

Whenever any person has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the board, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board may commence action in the superior court under the provisions of this section.

(Amended by Stats. 2021, Ch. 649, § 43 (SB 806), eff. January 1, 2022.)

Article 6.5. Diversion of Impaired Physician Assistants

§ 3534. Legislative Intent

It is the intent of the Legislature that the board shall seek ways and means to identify and rehabilitate physician assistants whose competency is impaired due to abuse of dangerous drugs or alcohol so that they may be treated and returned to the practice of medicine in a manner which will not endanger the public health and safety.

(Amended by Stats. 2012, Ch. 332, § 66 (SB 1236), eff. January 1, 2013.)

§ 3534.1. Diversion Evaluation Committee

The board shall establish and administer a diversion program for the rehabilitation of physician assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more diversion evaluation committees to assist it in carrying out its duties under this article. As used in this article, "committee" means a diversion evaluation committee. A committee created under this article operates under the direction of the diversion program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

(Amended by Stats. 2012, Ch.332, § 67 (SB 1236), eff. January 1, 2013.)

§ 3534.2. Composition

(a) Any committee established by the board shall have at least three members. In making appointments to a committee the board shall consider the appointments of persons who are either recovering of substance abuse and have been free from abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider matters relating to any physician assistant applying for or participating in a diversion program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or participant. Each member of a committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

(Amended by Stats. 2012, Ch. 332, § 68 (SB 1236), eff. January 1, 2013.)

§ 3534.3. Duties and Responsibilities

Each committee has the following duties and responsibilities:

(a) To evaluate physician assistants who request participation in the program and to make recommendations to the program manager. In making recommendations, a committee shall consider any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) To review and designate treatment facilities to which physician assistants in the diversion program may be referred, and to make recommendations to the program manager.

(c) The receipt and review of information concerning physician assistants participating in the program.

(d) To call meetings as necessary to consider the requests of physician assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

(e) To consider whether each participant in the diversion program may with safety continue or resume the practice of medicine.

(f) To set forth in writing the terms and conditions of the diversion agreement that is approved by the program manager for each physician assistant participating in the program, including treatment, supervision, and monitoring requirements.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the diversion program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the diversion program.

(h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a committee shall be considered a public employee. No board or committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

(Amended by Stats. 2012, Ch. 332, § 69 (SB 1236), eff. January 1, 2013.)

§ 3534.4. Criteria for Acceptance

(a) Criteria for acceptance into the diversion program shall include all of the following:

(1) The applicant shall be licensed as a physician assistant by the board and shall be a resident of California.

(2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner that may affect their ability to practice medicine safely or competently.

(3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.

(4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.

(5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.

(6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for them.

(b) An applicant may be denied participation in the program if the board, the program manager, or a committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(Amended by Stats. 2024, Ch. 497, Sec. 20. (SB 1526) Effective January 1, 2025.)

§ 3534.5. Participant Termination

(a) A participant may be terminated from the program for any of the following reasons:

(1) The participant has successfully completed the treatment program.

(2) The participant has failed to comply with the treatment program designated for them.

(3) The participant fails to meet any of the criteria set forth in paragraph (4).

(4) It is determined that the participant has not substantially benefited from participation in the program or that their continued participation in the program creates too great a risk to the public health, safety, or welfare.

(b) Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of medicine by that individual creates too great a risk to the public health and safety, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board.

(c) Each physician assistant who requests participation in a diversion program shall agree to cooperate with the recovery program designed for them. Any failure to comply with that program may result in termination of participation in the program.

(d) The board shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physician assistant in the program, and the possible results of noncompliance with the program.

(Amended by Stats. 2024, Ch. 497, Sec. 21. (SB 1526) Effective January 1, 2025.)

§ 3534.6. Additional Criteria by Regulation

In addition to the criteria and causes set forth in Section 3534.4, the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

(Amended by Stats. 2012, Ch. 332, § 72 (SB 1236), eff. January 1, 2013.)

§ 3534.7. Confidentiality of Records

All board and committee records and records of proceedings and participation of a physician assistant in a program shall be confidential and are not subject to discovery or subpoena.

(Amended by Stats. 2012, Ch. 332, § 73 (SB 1236), eff. January 1, 2013.)

§ 3534.8. Participation Fee

A fee may be charged for participation in the program.

(Added by Stats. 1988, Ch. 385, § 2.)

§ 3534.9. Program Review

If the board contracts with any other entity to carry out this section, the executive officer of the board or the program manager shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

(Amended by Stats. 2012, Ch.332, § 74 (SB 1236), eff. January 1, 2013.)

§ 3534.10. Participation Not a Defense

Participation in a diversion program shall not be a defense to any disciplinary action which may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physician assistant who is terminated unsuccessfully from the program under this section. That disciplinary action may not include as evidence any confidential information.

(Amended by Stats. 2012, Ch. 332, § 75 (SB 1236), eff. January 1, 2013.)

Article 7. Osteopathic Physician Assistants

§ 3535. Osteopathic Physician Assistants (operative July 1, 2001)

(a) Notwithstanding any other provision of law, physicians and surgeons licensed by the Osteopathic Medical Board of California may use or employ physician assistants provided (1) each physician assistant so used or employed is a graduate of an approved program and is licensed by the board, and (2) the scope of practice of the physician assistant is the same as that which is approved by the Division of Licensing of the Medical Board of California for physicians and surgeons supervising physician assistants in the same or similar specialty.

(b) Any person who violates subdivision (a) shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) This section shall become operative on July 1, 2001.

(Amended by Stats. 2012, Ch.332, § 76 (SB 1236), eff. January 1, 2013.)

Article 7.5. International Medical Graduate Physician Assistants

§ 3537.10. Training Program

(a) Subject to the other provisions of this article, the Department of Health Care Access and Information, hereafter in this article referred to as the department, shall coordinate the establishment of an international medical graduate physician assistant training program, to be conducted at an appropriate educational institution or institutions. The goal of the program shall be to place as many international medical graduate physician assistants in medically underserved areas as possible in order to provide greater access to care for the growing population of medically indigent and underserved. The method for accomplishing this goal shall be to train foreign medical graduates to become licensed as physician assistants at no cost to the participants in return for a commitment from the participants to serve full time in underserved areas for a four-year period.

(b) By February 1, 1994, or one month after federal funds to implement this article become available, whichever occurs later, the department shall establish a training program advisory task force. The task force shall be comprised of representatives from all of the following groups:

(1) Physician assistant program directors.

(2) Foreign medical graduates.

(3) The California Academy of Physician Assistants.

(4) Nonprofit community health center directors.

(5) Physicians.

(6) The board, at the board's option.

The department may, instead, serve solely as a consultant to the task force.

(c) The task force shall do all of the following:

(1) Develop a recommended curriculum for the training program that shall be from 12 to 15 months in duration and shall, at a minimum, meet curriculum standards consistent with the board's regulations. The program shall be subject to the board's approval. By April 1, 1994, or three months after federal funds to implement this article become available, whichever occurs later, the curriculum shall be presented by the department to the Committee on Allied Health Education and Accreditation of the American Medical Association, or its successor organization, for approval.

(2) Develop recommended admission criteria for participation in the pilot and ongoing program.

(3) Assist in development of linkages with academic institutions for the purpose of monitoring and evaluating the pilot program.

(Amended by Stats. 2022, Ch. 511, Sec. 17. (SB 1495) Effective January 1, 2023.)

§ 3537.15. Pilot Program

(a) Before establishing an ongoing international medical graduate physician assistant training program, the Department of Health Care Access and Information shall coordinate the establishment of a pilot program commencing September 1, 1994, or eight months after federal funds to implement this article become available, whichever occurs later, to test the validity and effectiveness of the recommended training curriculum developed by the task force. The task force shall, with the advice and assistance of the academic institutions offering the pilot program curriculum, and subject to their approval, select 10 international medical graduates to participate in the pilot program.

(b) After two classes have graduated from the pilot program, the task force, with the advice and assistance of the academic institutions, shall evaluate the results of the pilot program, to determine whether a permanent program should be established. The department may modify curriculum as needed and make appropriate revisions in order to ensure program integrity and compliance with established standards. Any permanent international medical graduate physician assistant training program shall commence at the beginning of the year following the completion of the evaluation.

(Amended by Stats. 2022, Ch. 511, Sec. 18. (SB 1495) Effective January 1, 2023.)

§ 3537.20. Requirements

Any person who has satisfactorily completed the program established by this article shall be eligible for licensure by the board as a "physician assistant" if the person has complied with all of the following requirements:

(a) Has successfully completed the written examination required under Section 3517.

(b) Has successfully completed the Test of English as a Foreign Language (TOEFL).

(Amended by Stats. 2012, Ch. 332, § 78 (SB 1236), eff. January 1, 2013.)

§ 3537.25. Minimum Term of Service; Enforceable Agreement

Both the pilot and the ongoing training program shall provide training at no cost to the participants in return for a written, enforceable agreement by the participants to, upon obtaining licensure under this article, serve a minimum of four years as a full-time physician assistant in an area of California designated by the Department of Health Care Access and Information as a medically underserved area pursuant to Section 3537.35.

(Amended by Stats. 2022, Ch. 511, Sec. 19. (SB 1495) Effective January 1, 2023.)

§ 3537.30. Default

(a) The Legislature recognizes that the goal of this program would be compromised if participants do not observe their commitments under this program to provide the required service in a medically underserved area. The goal of this program would not be met if all that it accomplished was merely to license physician assistants that served populations that are not medically underserved.

(b) Since damages would be difficult or impossible to ascertain in the event of default by the participant, this section shall set forth the extent of liquidated damages that shall be recoverable by the program in the case of default.

(c) In the case of default by a participant who has successfully completed the program and has obtained licensure under this article, the program shall collect the following damages from the participant:

(1) The total cost expended by the program for the training of the applicant, and interest thereon from the date of default.

(2) The total amount needed for the program to seek cover as set forth in subdivision (b) of Section 3537.35.

(3) The costs of enforcement, including, but not limited to, the costs of collecting the liquidated damages, the costs of litigation, and attorney's fees.

(d) The Attorney General may represent the department, or the board, or both in any litigation necessitated by this article, or, if the Attorney General declines, the department, or the board, or both may hire other counsel for this purpose.

(e) Funds collected pursuant to subdivision (c) shall be allocated as follows:

(1) Costs of training recovered pursuant to paragraph (1) of subdivision (c) shall be allocated to the department to be used upon appropriation for the continuing training program pursuant to this article.

(2) Costs of seeking cover recovered pursuant to paragraph (2) of subdivision (c) shall be deposited in the Physician Assistant Training Fund established pursuant to Section 3537.40 for the purposes of providing grants pursuant to subdivision (c) of Section 3537.35.

(3) Costs of enforcement recovered pursuant to paragraph (3) of subdivision (c) shall be allocated between the department, and the Attorney General, or other counsel, according to actual costs.

(Amended by Stats. 2022, Ch. 511, Sec. 20. (SB 1495) Effective January 1, 2023.)

§ 3537.35. The Office of Statewide Health Planning and Development

The Department of Health Care Access and Information shall, in addition to other duties described in this article, do all of the following:

(a) Determine those areas of the state that are medically underserved in that they have a higher percentage of medically underserved and indigent persons and would benefit from the services of additional persons licensed as physician assistants.

(b) Determine the total cost of seeking cover as specified in paragraph (2) of subdivision (c) of Section 3537.30. To determine the cost, the department shall study the market forces that are at work creating the scarcity of these physician assistants in these medically underserved areas, and determine the annual level of additional funding that would be required by a health facility, clinic, or other health care provider in those areas to motivate a physician assistant to serve full-time in those underserved areas. This amount shall be calculated so that when added to the prevailing rate for these services in the underserved area, would make these positions so attractive that physician assistants would be motivated to serve in those areas. This amount, which shall equal the cost to the department to place a qualified physician assistant in the underserved area, times four years shall be the total cost of seeking cover.

(c) Provide grants, as funds become available in the Physician Assistant Training Fund, to applicant health care providers that provide services in medically underserved areas for the purpose of funding additional full-time physician assistant positions in those areas to provide services in lieu of defaulting physician assistants. Participating providers shall use these grants to attract physician assistants that are from outside the area and shall demonstrate that the grant actually increases the number of physician assistants serving the underserved population. The grantee shall demonstrate that the grant did not merely shift a physician assistant from one medically underserved area to another, but rather, resulted in a net increase in the number of physician assistants serving the underserved population as a whole. Licensees under this article shall not directly or indirectly receive grants under this section.

(Amended by Stats. 2022, Ch. 511, Sec. 21. (SB 1495) Effective January 1, 2023.)

§ 3537.40. Physician Assistant Training Fund

The Physician Assistant Training Fund is hereby created in the State Treasury for the purpose of receipt of funds collected pursuant to paragraph (2) of subdivision (c) of Section 3537.30. The Physician Assistant Training Fund shall be available to the Department of Health Care Access and Information for the purpose of providing grants pursuant to subdivision (c) of Section 3537.35, upon appropriation by the Legislature.

(Amended by Stats. 2022, Ch. 511, Sec. 22. (SB 1495) Effective January 1, 2023.)

§ 3537.45. Fees

The program established pursuant to this article shall not be funded, directly or indirectly, from an increase in the fees charged to physician assistants pursuant to Section 3521.1. This article does not excuse physician assistants trained pursuant to this article from paying the fees established pursuant to Section 3521.1.

(Amended by Stats. 2025, Ch. 194, Sec. 19. (AB 1501) Effective January 1, 2026.)

§ 3537.50. Federal Funding

No General Fund revenues shall be expended to carry out this article. The implementation of the pilot program and, if applicable, the permanent program established by this article shall be contingent upon the availability of federal funds, which do not divert or detract from funds currently utilized to underwrite existing physician assistant training programs or to fund existing functions of the board. The new funding shall be sufficient to cover the full additional cost to the educational institution or institutions that establish the program or programs, the cost of tuition and attendance for the students in the program or programs, and any additional costs, including enforcement costs, that the department or the board incurs as a result of implementing this article. This article does not impose any obligations upon the department, the board, or any physician assistant training program in the absence of adequate funding as described in this section. This article does not preclude applicants for the program established by this article from seeking state or federal scholarship funds, or state and federal loan repayment funds available to physician assistant students, or require any applicants be granted preference in the award of those funds. This article does not impair the autonomy of any institution that offers a physician assistant training program.

(Amended by Stats. 2022, Ch. 511, Sec. 23. (SB 1495) Effective January 1, 2023.)

Article 8. Physician Assistants Corporations

§ 3540. Definition

A physician assistants corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are certified physician assistants are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a physician assistants corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code is the board.

(Amended by Stats. 2012, Ch. 332, § 81 (SB 1236), eff. January 1, 2013.)

§ 3541. Unprofessional Conduct—Violations

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

(Added by Stats. 1982, Ch. 1304, § 2.)

§ 3542. Unprofessional Conduct

A physician assistant corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by these statutes and regulations to the same extent as a person holding a license under this chapter.

(Amended by Stats. 1994, Ch. 26, § 122, eff. March 30, 1994.)

§ 3543. Corporation Name

The name of a physician assistant corporation and any name or names under which it may render professional services shall contain the words “physician assistant,” and wording or abbreviations denoting corporate existence.

(Amended by Stats. 1994, Ch. 26, § 123, eff. March 30, 1994.)

§ 3544. Shareholders, Directors and Officers

Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a physician assistant corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

(Amended by Stats. 1994, Ch. 26, § 124, eff. March 30, 1994.)

§ 3545. Income

The income of a physician assistant corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of the shareholder or their shares in the physician assistant corporation.

(Amended by Stats. 2024, Ch. 497, Sec. 22. (SB 1526) Effective January 1, 2025.)

§ 3546. Regulations—Repealed

Division 13.8. Physician Assistant Board

Article 1. General Provisions

The Board anticipates that many regulations may need to be updated to comply with SB 697. The regulations booklet will be updated once the Office of Administrative Law has approved those regulations affected by SB 697.

§ 1399.500. Citation.

This chapter may be cited and referred to as the "Physician Assistant Regulations."

NOTE: Authority and reference cited: Section 3510, Business and Professions Code.

HISTORY:

1. Repealer of article 1 (sections 1399.500–1399.516, not consecutive) and new article 1 (sections 1399.500–1399.518, not consecutive) filed 8-23-79; effective thirtieth day thereafter (Register 79, No. 34). For history of former article, see Register 77, No. 48.

2. Amendment filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

3. Renumbering of chapter 13.7 (sections 1399.500–1399.615, not consecutive) to chapter 13.8 filed 12-14-84; effective thirtieth day thereafter (Register 84, No. 50).

4. Editorial correction of division heading (Register 92, No. 6).

5. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

6. Change without regulatory effect amending division heading filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.501. Location of Office.

The principal office of the Physician Assistant Board is located at 2005 Evergreen Street, Suite 2250, Sacramento, California 95815.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3510, Business and Professions Code.

HISTORY:

1. Amendment filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Change without regulatory effect amending section filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

5. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.502. Definitions.

For the purposes of the regulations contained in this chapter, the terms

(a) "Board" means Physician Assistant Board.

(b) "Code" means the Business and Professions Code.

(c) "Approved program" means a program for the education and training of physician assistants which has been approved by the Board.

(d) "Approved controlled substance education course" means an educational course approved by the Board pursuant to section 1399.610.

(e) "Practice agreement" means the definition set forth in Section 3501(k) of the Code and it must contain the elements described in Section 3502.3(a) of the Code and section 1399.540(a).

(f) "Supervision" means the definition set forth in Section 3501(f) of the Code.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3510, Business and Professions Code.

HISTORY:

1. Amendment filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. New subsection (g) filed 7-12-85; effective thirtieth day thereafter (Register 85, No. 28).

3. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

4. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

5. New subsection (h) filed 10-17-2008; operative 10-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 42).t

6. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

7. Amendment filed 7-19-2024; operative 10/1/2024 (Register 2024, No. 29).

§ 1399.503. Delegation of Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act, Section 11500, et seq. of the Government Code, the Board delegates and confers upon the Executive Officer of the board, or in their absence, the designee of the Executive Officer, all functions necessary to the dispatch of business of the Board in connection with investigative and administrative proceedings under their jurisdiction, including, the ability to accept default decisions and to approve settlement agreements for the surrender or interim suspension of a license.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3528 and 3529, Business and Professions Code; and Section 11415.60, Government Code.

HISTORY:

1. Amendment filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Amendment of section and Note filed 10-6-2011; operative 11-5-2011 (Register 2011, No. 40).

3. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.504. Prior Approval or Certification to Practice as a Physician's Assistant. [Renumbered]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 2141, 3503, 3514, 3515, 3517, and 3519, Business and Professions Code.

HISTORY:

1. Renumbering and amendment to section 1399.520 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.505. Prior Approval to Supervise. [Repealed]

NOTE: Authority cited: Section 2018, Business and Professions Code.

HISTORY:

1. Repealer filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.506. Filing of Applications.

(a) Applications for licensure as a physician assistant shall be filed on a form provided by the board at its Sacramento office and accompanied by the fee required in section 1399.550.

(b) Applications for approval of programs for the education and training of physician assistants shall be filed on a form provided by the board at its Sacramento office and accompanied by the fee required in section 1399.556.

NOTE: Authority cited: Sections 2018 and 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Amendment file 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Change without regulatory effect amending section and Note filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.507. Examination Required.

The written examination for licensure as a physician assistant is that administered by the National Commission on Certification of Physician Assistants. Successful completion requires that the applicant have achieved the passing score established by the board for that examination. It is the responsibility of the applicant to ensure that certification of his or her examination score is received by the board.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 851, 3515 and 3517, Business and Professions Code.

HISTORY:

1. Amendment filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.507.5. Physical or Mental Examination of Applicants.

In addition to any other requirements for licensure, whenever it reasonably appears that an applicant for a license may be unable to perform as a physician assistant safely because the applicant's ability to perform may be impaired due to mental illness or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The applicant shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. The report of the evaluation shall be made available to the applicant. If after receiving the evaluation report the board determines that the applicant is unable to safely practice, the board may deny the application.

NOTE: Authority cited: Sections 3504.1 and 3510, Business and Professions Code. Reference: Sections 3514.1 and 3519.5, Business and Professions Code.

HISTORY:

1. New section filed 10-6-2011; operative 11-5-2011 (Register 2011, No. 40).

2. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.508. Interim Approval. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3514 and 3517, Business and Professions Code.

HISTORY:

1. Amendment filed 9-2-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Amendment and lettering of first paragraph to subsection (a) and new subsection (b) filed 9-15-89; operative 10-15-89 (Register 89, No. 38).

3. Amendment filed 2-13-2003; operative 3-15-2003 (Register 2003, No. 7).

4. Change without regulatory effect repealing section filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

§ 1399.509. Billing for Medical Services Rendered by the Physician's Assistant. [Repealed]

NOTE: Authority cited: Section 2018, Business and Professions Code.

HISTORY:

1. Repealer filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.510. Patient Informed Consent. [Renumbered]

NOTE: Authority cited: Sections 2018 and 3510, Business and Professions Code. Reference: Sections 3502 and 3513, Business and Professions Code.

HISTORY:

1. Amendment filed 12-30-81; effective thirtieth day thereafter (Register 82, No. 1).

2. Renumbering and amendment to section 1399.538 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.511. Notice of Change of Address.

(a) Each person or approved program holding a license or approval and each person or program who has an application on file with the board shall notify the board at its office of any and all changes of mailing address within thirty (30) calendar days after each change, giving both the old and new address.

(b) If an address reported to the board is a post office box, the licensee shall also provide the board with a street address, but he or she may request that the second address not be disclosed to the public.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 136 and 3522, Business and Professions Code.

HISTORY:

1. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

2. Amendment of section and Note filed 6-7-2001; operative 7-1-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 23).

3. Change without regulatory effect amending subsection (a) filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

4. Change without regulatory effect amending section and Note filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.512. Review of Physician Assistant Applications; Processing Time. [Repealed]

NOTE: Authority cited: Sections 3510 and 3514, Business and Professions Code; and Section 15376, Government Code. Reference: Section 3514, Business and Professions Code; and Section 15376, Government Code.

HISTORY:

1. New section filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Change without regulatory effect repealing section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.513. Advertising. [Renumbered]

NOTE: Authority cited: Sections 651 and 3510, Business and Professions Code. Reference: Sections 651, 651.3 and 3527, Business and Professions Code.

HISTORY:

1. New section filed 4-10-80; effective thirtieth day thereafter (Register 80, No. 15).

2. Renumbering and amendment to section 1399.524 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.514. Renewal of License.

(a) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, they have been convicted of any violation of the law in this or any other state, the United States, or other country, omitting traffic infractions under $500 not involving alcohol, dangerous drugs, or controlled substances.

(b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, they have been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(c) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 141, 490, 3504.1, 3523, 3524, 3527 and 3531, Business and Professions Code.

HISTORY:

1. New section filed 10-5-2009; operative 11-4-2009 (Register 2009, No. 41). For prior history, see Register 83, No. 39.

2. Amendment of subsection (a) filed 11/28/2018; operative 1-1-2019 (Register 2018, No. 48).

§ 1399.515. Retired Status.

(a) The board shall issue, upon receipt of a completed Application for Retired Status (Form PAB-RET, 01/19), which is hereby incorporated by reference, a retired license to a physician assistant who meets all of the following requirements:

(1) The applicant has been licensed by the board and is not actively engaged in practice as a physician assistant or any activity that requires them to be licensed by the board.

(2) The applicant's physician assistant license is not canceled, suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under the Medical Practice Act (commencing with Section 2000 of the Code), Physician Assistant Practice Act (commencing with Section 3500 of the Code), regulations adopted pursuant to those practice acts, and by the board.

(3) Beginning one (1) year from the effective date of this regulation, the applicant's license is not delinquent. If the license is in a delinquent status, the applicant may satisfy this requirement by submitting payment for all outstanding fees with the retirement status application. For the purposes of this subsection, "outstanding fees" includes all accrued renewal fees, a seventy-five dollar ($75) delinquency fee, and the mandatory fee for the Controlled Substance Utilization Review and Evaluation System (CURES) as set forth in Section 208 of the Code.

(b) The holder of a retired license:

(1) Shall be exempt from the renewal requirements described in Section 3524.5 of the Code.

(2) May restore their license to active status by: complying with the renewal requirements set forth in Section 1399.514, submitting proof of completion of continuing medical education (CME) as set forth in Section 1399.615 or proof of certification by the National Commission on Certification of Physician Assistants, submitting the license renewal fee as set forth in Section 1399.550, and submitting the mandatory fee for the Controlled Substance Utilization Review and Evaluation System (CURES) as set forth in Section 208 of the Code.

(c) The board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee who may be in violation of this section.

Note: Authority cited: Sections 3510 and 3521.3, Business and Professions Code. Reference: Sections 208, 464, 3521.1 and 3521.3, Business and Professions Code.

HISTORY

1. New section filed 12-21-2018; operative 4-1-2019 (Register 2018, No. 51). For prior history, see Register 83, No. 39.

2. Change without regulatory effect amending Form PAB-RET (incorporated by reference) and amending subsection (a) filed 2-25-2019 pursuant to section 100, title 1, California Code of Regulations (Register 2019, No. 9).

§ 1399.516. Substantial Relationship Criteria. [Renumbered]

NOTE: Authority cited: Sections 481, 3510, and 3529, Business and Professions Code. Reference: Sections 480, 481, 490, 3527, 3529, and 3531, Business and Professions Code.

HISTORY:

1. Renumbering and amendment to section 1399.525 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.517. Rehabilitation Criteria for Denials and Reinstatements. [Renumbered]

NOTE: Authority cited: Sections 482, 3510, and 3529, Business and Professions Code. Reference: Sections 480, 482, 490, 3527, 3529, and 3531, Business and Professions Code.

HISTORY:

1. Renumbering and amendment to section 1399.526 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.518. Rehabilitation Criteria for Suspensions and Revocations. [Renumbered]

NOTE: Authority cited: Sections 482, 3510, and 3529, Business and Professions Code. Reference: Sections 480, 482, 490, 3527, 3529, and 3531, Business and Professions Code.

HISTORY:

1. Renumbering and amendment to section 1399.527 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.519. Review of Applications for Approval as a Supervising Physician; Processing Time. [Repealed]

NOTE: Authority cited: Sections 2018 and 3514, Business and Professions Code; and Section 15376, Government Code. Reference: Section 3514, Business and Professions Code; and Section 15376, Government Code.

HISTORY:

1. New section filed 10-3-3; effective thirtieth day thereafter (Register 83, No. 43).

2. Change without regulatory effect repealing section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

Article 2. Enforcement

§ 1399.520. Practice as a Physician Assistant.

No person shall practice as a physician assistant in this state unless they are a trainee or are licensed to practice as a physician assistant by the board.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 2052, 2061, 3515 and 3517, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.520, and renumbering and amendment of former section 1399.504 to section 1399.520 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Register 79, No. 34.

2. Amendment of article 2 heading filed 7-18-85; effective thirtieth day thereafter (Register 85, No. 32).

3. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

4. Change without regulatory effect amending section filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

5. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.521. Denial, Suspension or Revocation of a Physician Assistant License.

In addition to the grounds set forth in section 3527, subd. (a), of the code the board may deny, issue subject to terms and conditions, suspend, revoke or place on probation a physician assistant for the following causes:

(a) Any violation of the State Medical Practice Act which would constitute unprofessional conduct for a physician and surgeon.

(b) Using fraud or deception in passing an examination administered or approved by the board.

(c) Practicing as a physician assistant under a physician who has been prohibited by the Medical Board of California or the Osteopathic Medical Board of California from supervising physician assistants.

(d) Performing medical tasks which exceed the scope of practice of a physician assistant as prescribed in these regulations.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3527, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.521, and renumbering of former section 1399.514 to section 1399.521 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.521.5. Unprofessional Conduct.

In addition to the conduct described in Section 3527 of the Code, "unprofessional conduct" also includes the following:

(a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice to which the licensee is or expects to be named as a party, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(b) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(c) The commission of any act of sexual abuse or misconduct.

(d) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(e) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(f) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3504.1 and 3510, Business and Professions Code.

HISTORY:

1. New section filed 10-6-2011; operative 11-5-2011 (Register 2011, No. 40).

2. Change without regulatory effect amending subsections (a)(1)(b), (d)-(e) and (f) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.522. Denial, Suspension or Revocation of Approval to Supervise a Physician Assistant. [Repealed]

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 3527, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.522 to section 1399.545, and renumbering and amendment of former section 1399.515 to section 1399.522 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect repealing section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 1399.523. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Physician Assistant Board shall consider the disciplinary guidelines entitled "Physician Assistant Board Manual of Model Disciplinary Guidelines and Model Disciplinary Orders" 4th Edition 2016, which are hereby incorporated by reference. Subject to the limitations of subsection (c), deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Physician Assistant Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

(c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation.

(1) Each of the "Conditions Applying the Uniform Standards," as set forth in the model disciplinary orders, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.

(2) The Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011) (Uniform Standards), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.

(d) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 3510, 3527, 3528, 3529, 3530, 3531, 3532 and 3533, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 11400.20 and 11425.50(e), Government Code; and Sections 315, 315.2, 315.4, 729, 3527, 3528, 3529, 3530, 3531, 3532 and 3533, Business and Professions Code.

HISTORY

1. New section filed 6-19-97; operative 6-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25). For prior history, see Register 83, No. 39.

2. Amendment filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31)

3. Amendment of section and Note filed 5-12-2008; operative 6-11-2008 (Register 2008, No. 20).

4. Amendment of section and Note filed 10-6-2011; operative 11-5-2011 (Register 2011, No. 40).

5. Change without regulatory effect amending first paragraph filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

6. Amendment of section and Note filed 4-11-2016; operative 7-1-2016 (Register 2016, No. 16).

7. Change without regulatory effect amending subsection (a) filed 9-14-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 38).

§ 1399.523.5. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) An individual applying for licensure who has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or who has been granted clemency or a pardon by a state or federal executive.

(4) An individual applying for licensure who has made a showing of rehabilitation pursuant to Section 1399.526.

(5) Any administrative proceeding that is fully adjudicated prior to July 1, 2020.

(c) A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this Section, and the prohibition in subsection (a) against reinstating a license shall govern. Subsection (b)(4) of this Section shall not be interpreted to apply to any individual applying for reinstatement of a license.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 480, 482, 3504.1, 3510, 3527, 3528, 3530 and 3531, Business and Professions Code.

HISTORY:

1. New section filed 10-6-2011; operative 11-5-2011 (Register 2011, No. 40).

2. Change without regulatory effect amending subsections (a) and (b)(1)-(2) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

3. Amendment of subsections (b)(1)-(2), new subsections (b)(3)-(4), subsection renumbering, amendment of newly designated subsection (b)(5), new subsection (c) and amendment of Note filed 3-3-2022; operative 7-1-2022 (Register 2022, No. 9).

§ 1399.524. Advertising.

A licensed physician assistant may advertise the provisions of professional services authorized to be provided by such license in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.

NOTE: Authority cited: Sections 651 and 3510, Business and Professions Code. Reference: Section 651, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.524 to section 1399.530, and renumbering and amendment of former section 1399.513 to section 1399.524 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 82, No. 1 and 79, No. 34.

§ 1399.525. Substantial Relationship Criteria.

(a) For the purposes of the denial, suspension or revocation of a license pursuant to section 141 or division 1.5 (commencing with section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physician Assistant Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding such a license to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and,

(3) The nature and duties of a physician assistant.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Medical Practice Act.

(2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physician Assistant Practice Act or other state or federal laws governing the practice of physician assistants.

(3) A conviction of child abuse.

(4) Conviction as a sex offender.

(5) Any crime, professional misconduct, or act involving the sale, gift, administration, or furnishing of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the code.

(6) Conviction for assault and/or battery.

(7) Conviction of a crime involving lewd conduct.

(8) Conviction of a crime involving fiscal dishonesty.

(9) Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 481, 2018 and 3510, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 3527 and 3531, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 1399.525 to section 1399.531, and renumbering and amendment of former section 1399.516 to section 1399.525 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 82, No. 10 and 79, No. 34.

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Amendment of first paragraph and subsection (b) and new subsections (c)-(i) filed 5-9-2000; operative 6-8-2000 (Register 2000, No. 19).

4. Change without regulatory effect amending first paragraph filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

5. Amendment of section and Note filed 1-29-2021; operative 1-29-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 5). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

§ 1399.526. Rehabilitation Criteria for Denials and Reinstatements.

(a) When considering the denial of a license under section 480 of the code on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) the nature and gravity of the crime(s).

(2) the length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in

subdivision (a), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 3527, 3530, or 3531 of the code, the board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1) The nature and gravity of the act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) committed subsequent to the act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) under consideration as grounds for denial under section 480 or 3527 of the code.

(3) The time that has elapsed since commission of the act(s), unprofessional conduct as defined in Section 3527 of the code and Section 1399.521.5, professional misconduct, or crime(s) referred to in subsection (b)(1) or (b)(2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(c) When considering a petition for reinstatement of a license or a petition for modification or termination of probation under the provisions of section 3530 of the code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in this section.

Note: Authority cited: Sections 481, 482, 2018 and 3510, Business and Professions Code. Reference: Sections 480, 481, 482, 488, 493, 3527, 3530 and 3531, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 1399.526 to section 1399.535, and renumbering and amendment of former section 1399.517 to section 1399.526, filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending subsections (a) and (b) filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

4. Change without regulatory effect amending subsections (a) and (b) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

5. Amendment of section and Note filed 1-29-2021; operative 1-29-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 5). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

§ 1399.527. Rehabilitation Criteria for Suspensions and Revocations.

(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Physician Assistant Practice Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 3527, 3530, or 3531 of the code, the board shall apply the following criteria in evaluating a licensee's rehabilitation:

(1) The nature and gravity of the act(s), disciplinary actions, unprofessional conduct, or crime(s).

(2) The total criminal record.

(3) The time that has elapsed since commission of the act(s), disciplinary actions, unprofessional conduct, or crime(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

(6) If applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code.

(7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 481, 482, 2018 and 3510, Business and Professions Code. Reference: Sections 141, 480, 482, 488, 493, 3527 and 3531, Business and Professions Code.

HISTORY

1. Renumbering and amendment of former section 1399.527 to section 1399.536, and renumbering and amendment of former section 1399.518 to section 1399.527 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending first paragraph filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

4. Change without regulatory effect amending first paragraph filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

5. Amendment of section and Note filed 1-29-2021; operative 1-29-2021 pursuant to Government Code section 11343.4(b)(3) (Register 2021, No. 5). Filing deadline specified in Government Code section 11349.3(a) extended 60 calendar days pursuant to Executive Order N-40-20 and an additional 60 calendar days pursuant to Executive Order N-71-20.

Article 3. Education and Training

§ 1399.528. Identification of a Primary Care Physician's Assistant and Trainees in Approved Programs. [Renumbered]

HISTORY:

1. Renumbering and amendment to section 1399.539 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.530. General Requirements for an Approved Program.

(a) A program for instruction of physician assistants shall meet the following requirements for approval:

(1) The educational program shall be established in educational institutions accredited by an accrediting agency recognized by Council for Higher Education Accreditation ("CHEA") or its successor organization, or the U.S. Department of Education, Division of Accreditation, which are affiliated with clinical facilities that have been evaluated by the educational program.

(2) The educational program shall develop an evaluation mechanism to determine the effectiveness of its theoretical and clinical program.

(3) Course work shall carry academic credit; however, an educational program may enroll students who elect to complete such course work without academic credit.

(4) The medical director of the educational program shall be a physician who holds a current license to practice medicine from any state or territory of the United States or, if the program is located in California, holds a current California license to practice medicine.

(5) The educational program shall require a three-month preceptorship for each student in the outpatient practice of a physician or equivalent experience which may be integrated throughout the program or may occur as the final part of the educational program in accordance with Sections 1399.535 and 1399.536.

(6) Each program shall submit an annual report regarding its compliance with this section on a form provided by the board.

(b) Those educational programs accredited by the Accreditation Review Commission on Education for the Physician Assistant ("ARC-PA") shall be deemed approved by the board. Nothing in this section shall be construed to prohibit the board from disapproving an educational program which does not comply with the requirements of this article. Approval under this section terminates automatically upon termination of an educational program's accreditation of ARC-PA.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.524 to section 1399.530 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Renumbering and amendment of former article 3 heading to article 4, redesignation of sections 1399.530–1399.532, 1399.535,

1399.536, 1399.538 and 1399.539 as new article 3, and amendment of section 1399.530(a) and (f) filed 7-18-85; effective thirtieth day thereafter (Register 85, No. 32).

3. Amendment filed 1-8-90; operative 2-7-90 (Register 90, No. 3).

4. Change without regulatory effect amending subsection (a) filed 7-25-94 pursuant to section 100, Title 1, California Code of Regulations (Register 94, No. 30).

5. Amendment filed 11-21-2000; operative 12-21-2000 (Register 2000, No. 47).

6. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

7. Change without regulatory effect amending subsections (a)(6)-(b) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.531. Curriculum Requirements for an Approved Program for Primary Care Physician Assistants. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference cited: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former Section 1399.525 to Section 1399.531 filed 9-20-83; effective thirtieth day thereafter (Register 83 No. 39).

2. Amendment filed 1-8-90; operative 2-7-90 (Register 90, No. 3).

3. Repealer of subsection (a)(1), subsection renumbering, amendment of paragraph preceding subsection (b) and repealer of subsection (c) filed 11-21-2000; operative 12-21-2000 (Register 2000, No.47).

4. Repealer filed 8-8-2018; operative 10-1-2018 (Register 2018, No. 32).

§ 1399.532. Requirements for an Approved Program for the Specialty Training of Physician Assistants. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. New section filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Amendment filed 3-17-87; effective thirtieth day thereafter (Register 87, No. 12).

3. Repealer filed 8-8-2018; operative 10-1-2018 (Register 2018, No. 32).

§ 1399.535. Requirements for Preceptorship Training.

An approved program shall have a preceptorship training program which meets the following criteria:

(a) Continuous orientation of preceptors to the goals and purposes of the total educational program as well as the preceptorship training;

(b) Establishment of a program whereby the preceptor shall not be the sole person responsible for the clinical instruction or evaluation of the preceptee.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.526 to section 1399.535 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.536. Requirements for Preceptors.

(a) "Preceptorship" is the supervised clinical practice phase of a physician assistant student's training. Each preceptorship shall include, at a minimum, supervision of the preceptee by a licensed physician preceptor. Other licensed health care providers approved by a program may serve as preceptors to supplement physician-supervised clinical practice experiences. Each preceptors participating in the preceptorship of an approved program shall:

(1) Be a licensed health care provider who is engaged in the practice of the profession for which they are validly licensed and whose practice is sufficient to adequately expose preceptees to a full range of experience. The practice need not be restricted to an office setting but may take place in licensed facilities, such as hospitals, clinics, etc.

(2) Not have had their professional license terminated, suspended, or otherwise restricted as a result of a final disciplinary action (excluding judicial review of that action) by any state healing arts licensing board or any agency of the federal government, including the military, within 5 years immediately preceding their participation in a preceptorship.

(3) By reason of their professional education, specialty and nature of practice be sufficiently qualified to teach and supervise preceptees within the scope of their license.

(4) Teach and supervise the preceptee in accordance with the provisions and limitations of sections 1399.540 and 1399.541.

(5) Obtain the necessary patient consent as required in section 1399.538.

(b) It shall be the responsibility of the approved program to ensure that preceptors comply with the foregoing requirements.

(c) For the purposes of this section, "licensed health care provider" includes, but is not limited to, a physician and surgeon, a physician assistant, a registered nurse certified in advanced practices, a certified nurse midwife, a licensed clinical social worker, a marriage and family therapist, a licensed educational psychologist, and a licensed psychologist.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.527 to section 1399.536 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Amendment of subsection (a)(2) filed 11-21-2000; operative 12-21-2000 (Register 2000, No. 47).

4. Amendment of subsections (a)-(a)(3), repealer of subsections (a)(4) and (a)(6), subsection renumbering, amendment of subsection (b) and new subsection (c), filed 1-10-2013, operative 4-1-2013 pursuant to Government Code section 11343.4(b)(4) (Register 2013, No. 2).

§ 1399.538. Patient Informed Consent.

No trainee including preceptees in any approved program shall render general medical services to any patient except in emergencies unless said patient has been informed that such services will be rendered by that trainee. In cases where the medical service to be rendered by the trainee is surgical in nature or where the trainee is to assist in a surgical procedure except in emergencies, the patient on each occasion shall be informed of the procedure to be performed by that trainee under the supervision of the program's instructors or physician preceptors and have consented in writing prior to performance to permit such rendering of the surgical procedure by the trainee. It shall be the responsibility of the approved educational program to assure that the instructors or physician preceptors obtain the necessary consent.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.510 to section 1399.538 filed 9-20-83; effective thirtieth day thereafter (Register 83,No. 39).

§ 1399.539. Identification of Trainees in Approved Programs.

A trainee enrolled in an approved program for physician assistants shall at all times wear an identification badge on an outer garment and in plain view, which states the student's name and the title:

PHYSICIAN ASSISTANT STUDENT

or

PHYSICIAN ASSISTANT TRAINEE

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3509 and 3513, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.528 to section 1399.539 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

Article 4. Practice of Physician Assistants

§ 1399.540. Limitation on Medical Services.

(a) In addition to meeting the requirements of Section 3502.3 of the Code, a practice agreement shall be dated by the physician assistant and one or more authorized physicians and surgeons.

(b) The Board or its representative may require proof or demonstration of competence from any physician assistant for any tasks, procedures, or management they are performing.

(c) If any task, procedure, or diagnostic problem exceeds the physician assistant's level of competence, they shall either consult a supervising physician and surgeon, or refer the patient to a physician and surgeon or licensed healthcare provider competent to render the services needed for the task, procedure, or diagnosis.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3502, 3502.3, 3509, 3516 and 3527, Business and Professions Code.

HISTORY

1. Repealer and new section filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Register 79, No. 34.

2. Amendment filed 7-12-85; effective thirtieth day thereafter (Register 85, No. 28).

3. Renumbering and amendment of former Article 3 (Sections 1399.540- 1399.545, not consecutive) to Article 4 filed 7-18-85; effective thirtieth day thereafter (Register 85, No. 32).

4. Amendment filed 7-8-2008; operative 8-7-2008 (Register 2008, No. 28).

5. Change without regulatory effect amending subsection (c) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

6. Amendment of section and Note filed 7-19-2024; operative 10/1/2024 (Register 2024, No. 29).

§ 1399.541. Medical Services Performable.

In any setting, including for example, any licensed health facility, out-patient settings, patients' residences, residential facility, and hospice, as applicable, a physician assistant may, pursuant to a practice agreement:

(a) Take a patient history; perform a physical examination and make an assessment and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans for those services described in Section 1399.541(b) through Section 1399.541(j) inclusive; and record and present pertinent data in a manner meaningful to the physician.

(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical therapy, occupational therapy, respiratory therapy, and nursing services.

(c) Order, transmit an order for, perform, or assist in the performance of laboratory procedures, screening procedures, and therapeutic procedures.

(d) Recognize and evaluate situations which call for immediate attention of a physician and institute, when necessary, treatment procedures essential for the life of the patient.

(e) Instruct and counsel patients regarding matters pertaining to their physical and mental health. Counseling may

include topics such as medications, diets, social habits, family planning, normal growth and development, aging, and understanding of and long-term management of their diseases.

(f) Initiate arrangements for admissions, complete forms and charts pertinent to the patient's medical record, and provide services to patients requiring continuing care, including patients at home.

(g) Initiate and facilitate the referral of patients to the appropriate health facilities, agencies, and resources of the community.

(h) Administer or provide medication to a patient, or issue or transmit drug orders orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section 3502.1 of the Code.

(i)(1) Perform surgical procedures as authorized by the practice agreement and in accordance with Section 3502 of the Code.

(2) A physician assistant may also act as first or second assistant in surgery as authorized by the practice agreement and in accordance with Section 3502 of the Code.

(j) Perform any other services authorized by the practice agreement for which the physician assistant is qualified in accordance with the requirements of Section 3502 of the Code.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3501, 3502, 3502.1, 3502.3 and 3509, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.541 and renumbering and amendment of former section 1399.523 to section 1399.541 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 82, No. 10; 80, No. 6; and 79, No. 34.

2. Amendment of subsection (h) filed 7-12-85; effective thirtieth day thereafter (Register 85, No. 28).

3. Amendment of subsection (f) filed 8-24-89; operative 9-23-89 (Register 89, No. 36).

4. Amendment filed 1-28-92; operative 2-27-92 (Register 92, No. 12).

5. Editorial correction of printing error in first paragraph (Register 92, No. 27).

6. Change without regulatory effect amending subsection (h) and Note filed 8-3-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 31).

7. Amendment of subsections (i)(1)-(2) filed 12-17-2014; operative 4-1-2015 (Register 2014, No. 51).

8. Amendment of section and Note filed 7-19-2024; operative 10/1/2024 (Register 2024, No. 29).

§ 1399.542. Delegated Procedures.

The delegation of procedures to a physician assistant under Section 1399.541, subsections (b) and (c) shall not relieve the supervising physician of primary continued responsibility for the welfare of the patient.

NOTE: Authority cited: Sections 2018 and 3502, Business and Professions Code. Reference: Section 3502, Business and Professions Code.

HISTORY:

1. Repealer and new section filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

§ 1399.543. Training to Perform Additional Medical Services.

A physician assistant may be trained to perform medical services which augment their current areas of competency in the following settings:

(a) In the physical presence of a supervising physician who is directly in attendance and assisting the physician assistant in the performance of the procedure;

(b) In an approved program;

(c) In a medical school approved by the Medical Board of California under Section 1314;

(d) In a residency or fellowship program approved by the Medical Board of California under Section 1321;

(e) In a facility or clinic operated by the Federal government;

(f) In a training program which leads to licensure in a healing arts profession or is approved as Category I continuing medical education or continuing nursing education by the Board of Registered Nursing.

NOTE: Authority cited: Sections 2018 and 3502, Business and Professions Code. Reference: Section 3502, Business and Professions Code.

HISTORY:

1. New section filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Amendment of first paragraph filed 1-28-92; operative 2-27-92 (Register 92, No. 12).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Change without regulatory effect amending subsections (c)-(d) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.545. Supervision Required.

(a) A supervising physician shall be available by telephone, or by other electronic communication when the physician assistant is providing medical services for patients.

(b) The supervising physician has continuing responsibility to follow the progress of the patient and to make sure that the physician assistant does not function without supervision. The supervising physician shall be responsible for all medical services provided by a physician assistant under their supervision.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3501, 3502, 3502.3 and 3516, Business and Professions Code.

HISTORY:

1. Renumbering and amendment of former section 1399.522 to section 1399.545 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Amendment filed 7-12-85; effective thirtieth day thereafter (Register 85, No. 28).

3. Amendment of subsection (e)(3) and repealer of subsection (g) and relettering filed 1-28-92; operative 2-27-92 (Register 92, No. 12).

4. Change without regulatory effect repealing subsection (f) and relettering subsections filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

5. Change without regulatory effect amending subsection (e)(4) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

6. Amendment of section and Note filed 7-19-2024; operative 10/1/2024 (Register 2024, No. 29).

§ 1399.546. Reporting of Physician Assistant Supervision.

(a) Each time a physician assistant provides care for a patient and enters their name, signature, initials, or computer code on a patient's record, chart or written order, the physician assistant shall also record in the medical record for that episode of care the supervising physician who is responsible for the patient. When a physician assistant transmits an oral order, they shall also state the name of the supervising physician responsible for the patient.

b) If the electronic medical record software used by the physician assistant is designed to, and actually does, enter the name of the supervising physician for each episode of care into the patient's medical record, such automatic entry shall be sufficient for compliance with this recordkeeping requirement.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3502, Business and Professions Code.

HISTORY:

1. New section filed 1-4-87; effective thirtieth day thereafter (Register 87, No. 3).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect amending section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

4. Amendment filed 6-12-2017; operative 10-1-2017 (Register 2017, No. 24).

§ 1399.547. Notification to Consumers.

(a) A licensee engaged in providing medical services shall provide notification to each patient of the fact that the licensee is licensed and regulated by the board. The notification shall include the following statement and information:

NOTIFICATION TO CONSUMERS
Physician assistants are licensed and regulated
by the Physician Assistant Board
(916) 561-8780
www.pab.ca.gov

(b) The notification required by this section shall be provided by one of the following methods:

(1) Prominently posting the notification in an area visible to patients on the premises where the licensee provides the licensed services, in which case the notice shall be in at least 48-point type in Arial font.

(2) Including the notification in a written statement, signed and dated by the patient or the patient's representative and retained in that patient's medical records, stating the patient understands the physician assistant is licensed and regulated by the board.

(3) Including the notification in a statement on letterhead, discharge instructions, or other document given to a patient or the patient's representative, where the notice is placed immediately above the signature line for the patient in at least 14-point type.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 138, Business and Professions Code.

HISTORY

1. New section filed 7-12-2011; operative 8-11-2011 (Register 2011, No. 28).

2. Change without regulatory effect amending subsections (a) and (b)(2) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

Article 5. Fees

§ 1399.550. Physician Assistant Fees.

The following fees for physician assistants are established:

(a) The application fee shall be $60.00.

(b) The fee for an initial license shall be $250.00.

(c) The fee for renewal of a license shall be $300.00.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3521.1, Business and Professions Code.

HISTORY:

1. Repealer of article 4 designation and former section 1399.550, renumbering of former section 1399.612 to section 1399.550, and redesignation of new section 1399.550 to article 3 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Redesignation of sections 1399.550-1399.554 as article 5 (Register 85, No. 32). For History of former article 5 (sections 1399.560-1399.565), see Register 83, No. 39.

3. Change without regulatory effect filed 2-5-91 pursuant to section 100, Title 1, California Code of Regulations (Register 91, No. 11).

4. Amendment of section and Note filed 5-11-2000; operative 6-10-2000 (Register 2000, No. 19).

5. Change without regulatory effect amending subsections (b) and (c) filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

§ 1399.551. Waiver of Initial License Fee. [Repealed]

NOTE: Authority cited: Sections 3510 and 3523, Business and Professions Code. Reference: Section 3523, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.551, renumbering and amendment of former section 1399.613 to section 1399.551, and redesignation of new section 1399.551 to article 3 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. Change without regulatory effect filed 2-5-91 pursuant to section 100,Title 1, California Code of Regulations (Register 91, No. 11).

3. Change without regulatory effect repealing section filed 8-21-2000 pursuant to section 100,Title 1, California Code of Regulations (Register 2000, No. 34).

§ 1399.552. Conversion Renewal Schedule. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 3521.1 and 3523, Business and Professions Code.

HISTORY:

1. Repealer filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39).

2. New section filed 3-28-84; effective thirtieth day thereafter (Register 84, No. 13).

3. Repealer filed 2-6-91 pursuant to section 100,Title 1, California Code of Regulations (Register 91, No. 11).

§ 1399.553. Physician Supervisor Fees. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3521, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.553, renumbering of former section 1399.610 to section 1399.553, and redesignation of new

section 1399.553 to article 3 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 82, No. 2; 80, No. 15; 79, No. 34; and 78, No. 17.

2. Amendment filed 3-28-84; effective thirtieth day thereafter (Register 84, No. 13).

3. Change without regulatory effect filed 2-5-91 pursuant to section 100,Title 1, California Code of Regulations (Register 91, No. 11).

4. Amendment of subsections (b) and (c) filed 6-13-91; operative 7-13-91 (Register 91, No. 35).

5. Amendment filed 6-3-94; operative 7-5-94 (Register 94, No. 22).

6. Amendment of subsections (b) and (c) filed 7-29-96; operative 7-29-96 pursuant to Government Code 11343.4(d) (Register 96, No. 31).

7. Amendment filed 5-11-2000; operative 6-10-2000 (Register 2000, No. 19).

8. Change without regulatory effect repealing section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 1399.554. Physician Supervisor Fees—Residents and Fellows. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 152.6, Business and Professions Code.

HISTORY:

1. New section filed 7-18-85; effective thirtieth day thereafter (Register 85, No. 32). For prior history, see Register 84, No. 13.

2. Change without regulatory effect repealing section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 1399.555. Expiration Date of Approvals. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 152.6, Business and Professions Code.

HISTORY:

1. Renumbering of former section 1399.615 to section 1399.555 and amendment of section heading filed 7-18-85; effective thirtieth day thereafter (Register 85, No. 32). For prior history, see Register 84, No. 13.

2. Change without regulatory effect repealing section filed 3-3-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 1399.556. Program Fees.

The following fees for physician assistants training programs are established:

(a) The application fee for program approval shall be $5.00.

(b) The initial approval fee shall be $5.00.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3521.2, Business and Professions Code.

HISTORY:

1. Repealer of former section 1399.556, renumbering of former section 1399.614 to section 1399.556, and redesignation of new section 1399.556 to article 3 filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Register 79, No. 34.

2. Amendment filed 3-28-84; effective thirtieth day thereafter (Register 84, No. 13).

3. Change without regulatory effect filed 2-5-91 pursuant to section 100,Title 1, California Code of Regulations (Register 91, No. 11).

4. Amendment of section and Note filed 6-7-2001; operative 7-1-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 23).

5. Change without regulatory effect amending subsections (a) and (b) filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

§ 1399.557. Diversion Program Participation Fee.

(a) Licensees required to participate in the diversion program as a condition of probation shall pay the full amount of the monthly participation fee charged by the contractor. Licensees voluntarily enrolling in the diversion program shall pay 75% of the monthly participation fee charged by the contractor. Each participant shall pay any and all other costs associated with the diversion program directly to the contractor, including, but not limited to, biological fluid test collection and sampling fees, support group fees, or subsequent evaluations.

(b) The board may require the licensee to pay his or her share of the monthly participation fee directly to any contractor providing such services.

(c) This section shall apply to licensees who enter or re-enter diversion on or after the effective date of this section.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: 3534.8, Business and Professions Code.

HISTORY: 1. New section filed 12-20-2010; operative 1-19-2011 (Register 2010, No. 52).

2. Change without regulatory effect amending subsection (b) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.560. Definition of an Emergency Care Physician's Assistant. [Repealed]

NOTE: Authority cited: Section 3510, Business and Professions Code.

HISTORY:

1. Repealer of article 5 (sections 1399.560–1399.565) filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history , see Registers 82, No. 2; 80, No. 15; 79, No. 34; and 78, No. 17.

Article 6. Citations and Fines

§ 1399.570. Authority to Issue Citations and Fines.

(a) For purposes of this article, "executive officer" shall mean the executive officer of the board.

(b) The executive officer is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a licensed physician assistant of the statutes and regulations referred to in Section 1399.571.

(c) A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail return receipt requested.

NOTE: Authority cited: Sections 125.9, 148 and 3510, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. Repealer of article 6 (sections 1399.570–1399.576) filed 9-20-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 82, No. 2; 80, No. 15; and 79, No. 34).

2. New article 6 (sections 1399.570–1399.574) and section filed 2-21-96; operative 3-22-96 (Register 96, No. 8).

3. Change without regulatory effect amending subsection (a) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.571. Citable Offenses.

(a) The executive officer shall consider the following factors when determining the amount of an administrative fine:

(1) The good or bad faith exhibited by the cited person.

(2) The nature and severity of the violation.

(3) Evidence that the violation was willful.

(4) History of violations of the same or similar nature.

(5) The extent to which the cited person has cooperated with the board.

(6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(7) Such other matters as justice may require.

(b) The executive officer may issue a citation under section 1399.570 for a violation of any of the following:

(1) The Physician Assistant Practice Act (Business and Professions Code section 3500 et seq.).

(2) A regulation adopted by the board.

(3) Any other statute or regulation upon which the board may base a disciplinary action.

The fine for a violation shall be from $100 to $5000.

(c) In his or her discretion, the executive officer may issue a citation with an order of abatement without levying a fine for the first violation of any provision set forth above.

(d) For the issuance of a citation that includes an administrative fine in excess of $2,500, including a citation issued pursuant to Section 1399.573, the executive officer shall determine that at least one of the following circumstances apply:

(1) The citation involves a violation that presents an immediate threat to the health and safety of another person.

(2) The citation involves multiple violations of the provisions specified in subdivision (b) that demonstrate a willful disregard of the law.

(3) The citation involves a violation or violations perpetrated against a senior citizen, a person under 18 years of age, or disabled person.

NOTE: Authority cited: Sections 125.9, 148 and 3510, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 2-21-96; operative 3-22-96 (Register 96, No. 8).

2. Amendment filed 10-30-2008; operative 11-29-2008 (Register 2008, No. 44).

3. Amendment of subsection (b), repealer and new subsections (b)(1)-(3) and repealer of subsections (b)(4)-(71) filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

4. Change without regulatory effect amending subsections (a)(5) and (b)(2)-(3) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.572. Compliance with Orders of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time in which to complete the correction from the executive officer. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and a failure to comply with the order of abatement. An order of abatement shall either be personally served or mailed by certified mail, return receipt requested. The time allowed for the abatement of a violation shall begin when the order of abatement is final and has been served or received. Such failure may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

NOTE: Authority cited: Sections 125.9. 148 and 3510. Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 2-21-96; operative 3-22-96 (Register 96. No. 8).

2. Change without regulatory effect amending subsection (b) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.573. Citations for Unlicensed Practice.

The executive officer is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which licensure as a physician assistant is required under the Physician Assistant Practice Act. The executive officer is authorized to issue citations and orders of abatement and levy fines against any person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation issued shall contain an order of abatement. Where appropriate, the executive officer shall levy a fine for such unlicensed activity in accordance with subdivision (b)(3) of Section 125.9 of the code. The provisions of Sections 1399.570 and 1399.572 shall apply to the issuance of citations for unlicensed activity under this subsection. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, 148 and 3510, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 2-21-96; operative 3-22-96 (Register 96, No. 8).

2. Change without regulatory effect amending section filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

3. Amendment filed 8-30-2018; operative 10-1-2018 (Register 2018, No. 35).

§ 1399.574. Contest of Citations.

(a) In addition to requesting a hearing as provided for in subdivision (b)(4) of Section 125.9 of the code, the person cited may, within 15 calendar days after service of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served.

(b) The executive officer shall, within 30 calendar days from the receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. The conference may be held telephonically. At the conclusion of the informal conference the executive officer may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve or mail a copy of his or her findings and decision to the person cited within 15 calendar days from the date of the informal conference, as provided in subsection (b) of section 1399.572. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 calendar days in accordance with subdivision (b)(4) of Section 125.9 of the code.

NOTE: Authority cited: Sections 125.9, 148 and 3510, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY:

1. New section filed 2-21-96; operative 3-22-96 (Register 96. No. 8).

Article 7. Approved Controlled Substance Education Courses

§ 1399.610. Requirements for an Approved Controlled Substance Education Course to Administer, Provide or Issue a Drug Order for Schedule II – V Controlled Substances Without Advance Approval From a Supervising Physician.

A controlled substance education course shall be deemed approved by the board if it meets all of the following criteria:

(a) The course includes all of the following learning objectives:

(1) Describes the applicable federal and state laws and regulations pertaining to the provision, administration and furnishing of controlled substances and the legal and professional relationship between a physician assistant and his or her supervising physician.

(A) This objective shall include a description of the applicable patient charting requirements and the use of secure drug order forms.

(2) Assessment strategies for the recognition, prevention and management of acute and chronic pain.

(3) Comparison of efficacy data and safety profiles which influence the selection, usage and conversion of pharmacological agents.

(4) The evaluation and comparison of the safety and efficacy profiles of controlled substances and the clinical rationale for their use.

(5) Describes disorders routinely requiring a therapeutic regimen of controlled substances for clinical management.

(6) Assessment of a controlled substance's potential for abuse and addiction, its psychosocial aspects, the recognition of the symptoms (including controlled substance-seeking behaviors) thereof and medically appropriate alternatives, if any,

(7) Evaluation of the response and compliance of the patient to the controlled substances.

(8) Provision of appropriate patient education regarding controlled substances.

For the purposes of this subdivision, "controlled substances" means Schedule II through Schedule V controlled substances.

(b) The course includes a comprehensive written examination, proctored by the course provider at the conclusion of the course, of the material presented. The licensee must successfully complete the examination to receive a certificate of completion issued pursuant to subdivision (b) of section 1399.612.

(c) The course is at least six (6) hours in duration, of which a minimum of three (3) hours shall be exclusively dedicated to Schedule II controlled substances. A course provider shall not include the time for the written examination specified in subdivision (b) in the (6) six hour requirement. The course shall be completed on or after January 1, 2008.

(d) The course is provided by one of following entities:

(1) A physician assistant program approved by the board in accordance with section 1399.530.

(2) A continuing education provider approved by the Medical Board of California for Category I continuing medical education.

(3) A Category I continuing education provider approved by American Academy of Physician Assistants.

(4) A Category I continuing education provider approved by the American Medical Association, the California Medical Association and/or the American Osteopathic Association.

NOTE: Authority cited: Sections 3502, 3502.1, and 3510 Business and Professions Code. Reference: Sections 2058, 3502, 3502.1 and 3509, Business and Professions Code.

HISTORY:

1. New article 7 (sections 1399.610-1399.612) and section filed 10-17-2008; operative 10-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No.42). For prior history of article 7 sections 1399.580-1399.586 and article 10, sections 1399.610-1399 .615, see Register 83, No. 39.

2. Change without regulatory effect amending first paragraph and subsection (d)(1) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.612. Responsibilities of Course Providers and Attendees.

(a) A course provider of any controlled substance educational course intended to meet the requirements of section 1399.610 shall use qualified instructors and shall provide course attendees with a written course outline or syllabus, as applicable. For the purposes of this section, a qualified instructor is a person who holds a current valid license to practice in the appropriate healing arts discipline, is free from any disciplinary action by the applicable licensing jurisdiction, and is knowledgeable, current and skilled in the subject matter of the course, as evidenced through either of the following:

(1) Experience in teaching similar subject matter content within two years immediately preceding the course; or,

(2) Has at least one year experience within the last two years in the specialized area in which he or she is teaching.

(b) A controlled substance course provider shall issue a certificate of completion to each licensee who has successfully completed the course. A certificate of completion shall include the following information:

(1) Name and license number of the physician assistant.

(2) Course title and each instructor's name.

(3) Provider's name and address.

(4) Date of course completion.

(c) A controlled substance education course provider shall retain the following records for a period of four years in one location within the State of California or in a place approved by the board:

(1) Course outlines of each course given.

(2) The date and physical location for each course given.

(3) The examination proctored at the conclusion of each course and the score of each physician assistant who took the examination.

(4) Course instructor curriculum vitae or resumes.

(5) The name and license number of each physician assistant taking an approved course and a record of any certificate of completion issued to a physician assistant.

A course provider shall make the records specified above available to the board upon request. A course provider may retain the records required by this subdivision in an electronic format.

(d) A physician assistant shall make their certificate of completion available for inspection upon the request of their employer or prospective employer, supervising physician or the board.

NOTE: Authority cited: Sections 3502 and 3510, Business and Professions Code. Reference: Sections 2058, 3502, 3502.1 and 3509, Business and Professions Code.

HISTORY:

1. New section filed 10-17-2008; operative 10-17-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 42). For prior history of section 1399.612, see Register 83, No. 39.

2. Change without regulatory effect redesignating second subsection (c)(1) as subsection (c)(2), renumbering subsections and amending newly designated subsection (c)(4) filed 10-12-2010 pursuant to section 100, title 1, California Code of Regulations (Register 2010, No. 42).

3. Change without regulatory effect amending subsections (c), (c)(5) and (d) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

Article 8. Continuing Medical Education

§ 1399.615. Continuing Medical Education Required.

(a) A physician assistant who renews his or her license on or after January 1, 2011, is required to complete fifty (50) hours of approved continuing medical education during each two (2) year renewal period.

(b) The requirements of subdivision (a) shall be deemed satisfied if the physician assistant, at the time of renewal, is certified by the National Commission on Certification of Physician Assistants.

(c) Each physician assistant in order to renew his or her license at each renewal thereof shall report compliance with the provisions of this article by declaring upon application that he or she has complied with the continuing medical education requirements or that the provisions of subdivision (b) are applicable.

(d) Any physician assistant who does not complete the required hours of approved continuing medical education during the two-year period immediately preceding the expiration date of the license shall be ineligible for renewal of his or her license under section 1399.617, unless such physician assistant applies for and obtains a waiver pursuant to Section 1399.618 below.

(e) A physician assistant shall retain, for a period of four years after the acquisition of the necessary continuing medical education, records issued by an approved continuing medical education provider that indicate the title of the course or program attended, the dates of attendance and the hours assigned to the course or program, or if a physician assistant is certified by the National Commission on Certification of Physician Assistants at the time of license renewal, evidence of certification shall be retained for four (4) years after such certification is issued.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5, Business and Professions Code.

HISTORY:

1. New article 8 (sections 1399.615-1399.619) and section filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

§ 1399.616. Approved Continuing Medical Education Programs.

(a) Programs are approved by the Board for continuing medical education if they meet the requirements of subdivision (b) and are designated as Category I (Preapproved) by one of the following sponsors:

(1) American Academy of Physician Assistants (AAPA).

(2) American Medical Association (AMA).

(3) American Osteopathic Association Council on Continuing Medical Education (AOACCME).

(4) American Academy of Family Physicians (AAFP).

(5) Accreditation Council for Continuing Medical Education (ACCME).

(6) A state medical society recognized by the ACCME.

(b) Beginning January 1, 2022, any continuing medical education course that includes a direct patient care component shall include curriculum that includes an understanding of implicit bias pursuant to section 3524.5 of the Code.

(c) Continuing medical education obtained from a program other than those specified in subdivision (a) shall not satisfy the continuing education requirement in subdivision (a) of section 1399.615.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5, Business and Professions Code.

HISTORY:

1. New section filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

2. Change without regulatory effect amending subsection (a) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

3. Amendment of subsection (a), new subsection (b) and subsection relettering filed 1-25-2022; operative 4-1-2022 (Register 2022, No. 4).

§ 1399.617. Audit and Sanctions for Noncompliance.

(a) The board may audit a random sample of physician assistants who have reported compliance with the continuing medical education requirement. Within 65 days of the date of the board's written request, those

physician assistants selected for audit shall be required to document their compliance with the continuing medical education requirements of this article and shall be required to respond to any inquiry by the board regarding compliance with this article or provide to the board the records retained pursuant to subdivision (e) of section 1399.615. However, a physician assistant who complies with the continuing medical education requirements of certification by the National Commission on Certification of Physician Assistants need not provide such records if the board may obtain the records directly from the Commission. If the board is unable to obtain such records from the Commission, the physician assistant shall provide the board with the certification records within 65 days of the date of the board's second written request for proof of compliance.

(b) It shall constitute unprofessional conduct for any physician assistant to fail to provide accurate or complete information in response to a board inquiry or to misrepresent his or her compliance with the provisions of this article.

(c) In addition to any enforcement action, any physician assistant who was found not to have completed the required number of hours of approved continuing medical education or was found not to hold a valid certification from the National Commission on Certification of Physician Assistants at the time of renewal will be required to make up any deficiency during the next biennial renewal period. The hours earned to make up the deficiency shall not be counted towards compliance during the next biennial renewal period. Such physician assistant shall document to the board the completion of any deficient hours identified by the audit. Any physician assistant who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to perform medical services until such time as the deficient hours of continuing medical education are documented to the board.

NOTE: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5 and 3527, Business and Professions Code.

HISTORY:

1. New section filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

2. Change without regulatory effect amending subsections (a) and (c) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

3. Amendment of section and Note filed 12-5-2019; operative 4-1-2020 (Register 2019, No. 49).

§ 1399.618. Waiver of Continuing Medical Education Requirement.

(a) The board or its designee may, in its discretion, exempt a licensee from the continuing medical education requirements for a renewal cycle, if the licensee cannot meet those requirements for reasons of health, military service, or undue hardship.

(b) Any licensee whose application for a waiver is denied by the board, shall be ineligible for active renewal of his or her license to perform medical services unless the licensee complies with the provisions of Section 1399.615.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 3524.5, Business and Professions Code.

HISTORY:

1. New section filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

2. Change without regulatory effect amending section filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

§ 1399.619. Inactive Status.

(a) Upon written request, the board may grant inactive status to a licensee if, at the time of application for inactive status, the license is current and not suspended, revoked, or otherwise punitively restricted by the board.

(b) A licensee who is inactive shall not engage in any activity for which a license is required.

(c) An inactive license shall be renewed during the same time period in which an active license is renewed. Any continuing medical education requirements for renewing a license are waived.

(d) The renewal fee for an inactive license is the same as the fee to renew an active license.

(e) To restore an inactive license to an active status, the holder shall do both of the following:

1) Pay the renewal fee.

2) Complete continuing medical education equivalent to that required for a single renewal period of an active license within the last two years prior to applying to restore the license to active status.

(f) The inactive status of any licensee does not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

(g) A license may be placed in inactive status if the licensee applies for renewal and pays all applicable fees, but fails to comply with the continuing medical education requirements of this article.

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 118, 700-704, 3510, 3523, 3524 and 3524.5, Business and Professions Code.

HISTORY

1. New section filed 5-13-2010; operative 6-12-2010 (Register 2010, No. 20).

2. Change without regulatory effect amending subsections (a) and (f) filed 8-7-2013 pursuant to section 100, title 1, California Code of Regulations (Register 2013, No. 32).

Article 9. Sponsored Free Health Care Events – Requirements for Exemption

Repealed Article 9 (section 1399.620-1399.623) effective 6-14-2018.

§ 1399.620. Definitions. [Repealed]

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY

1. New article 9 (sections 1399.620-1399.623) and section filed 8-7-2013; operative 10-1-2013 (Register 2013, No. 32).

2. Change without regulatory effect repealing article 9 (sections 1399.620-1399.623) and repealing section filed 6-14-2018 pursuant to section 100, title 1, California Code of Regulations (Register 2018, No. 24).

§ 1399.621. Sponsoring Entity Registration and Recordkeeping Requirements. [Repealed]

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY

1. 1. New section filed 8-7-2013; operative 10-1-2013 (Register 2013, No. 32).

2. Change without regulatory effect amending subsections (a) and (b) filed 8-13-2014 pursuant to section 100, title 1, California Code of Regulations (Register 2014, No. 33).

3. Change without regulatory effect amending subsections (a) and (b) filed 9-19-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 39).

4. Change without regulatory effect repealing section filed 6-14-2018 pursuant to section 100, title 1, California Code of Regulations (Register 2018, No. 24).

3. Change without regulatory effect amending subsections (a) and (b) filed 9-19-2016 pursuant to section 100, title 1, California Code of Regulations (Register 2016, No. 39).

§ 1399.622. Out-of-State Practitioner Authorization to Participate in Sponsored Event. [Repealed]

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Sections 144 and 901, Business and Professions Code.

HISTORY

1. New section filed 8-7-2013; operative 10-1-2013 (Register 2013, No. 32).

2. Change without regulatory effect repealing section filed 6-14-2018 pursuant to section 100, title 1, California Code of Regulations (Register 2018, No. 24).

§ 1399.623. Termination of Authorization and Appeal. [Repealed]

Note: Authority cited: Section 3510, Business and Professions Code. Reference: Section 901, Business and Professions Code.

HISTORY

1. New section filed 8-7-2013; operative 10-1-2013 (Register 2013, No. 32).

2. Change without regulatory effect repealing section filed 6-14-2018 pursuant to section 100, title 1, California Code of Regulations (Register 2018, No. 24).

Excerpts from the California Business & Professions Code

§ 27 Information to be Provided on Internet; Entities in Department of Consumer Affairs

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as the licensee's address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the internet.

(b) In providing information on the internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including automotive repair dealers, smog check stations, smog check inspectors and repair technicians, and vehicle safety systems inspection stations and technicians.

(3) The Bureau of Household Goods and Services shall disclose information on its licensees, registrants, and permitholders.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The Acupuncture Board shall disclose information on its licensees.

(13) The Board of Behavioral Sciences shall disclose information on its licensees and registrants.

(14) The Dental Board of California shall disclose information on its licensees.

(15) The California State Board of Optometry shall disclose information on its licensees and registrants.

(16) The Board of Psychology shall disclose information on its licensees, including psychologists and registered psychological associates.

(17) The Veterinary Medical Board shall disclose information on its licensees, registrants, and permitholders.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(Amended by Stats. 2023, Ch. 681, Sec. 1. (AB 1263) Effective January 1, 2024.)

§ 27.5 Licensee Legal Name or Gender Change

(a) (1) Notwithstanding any other law, if a board within the Department of Consumer Affairs receives government-issued documentation, as described in subdivision (b), from a licensee or registrant demonstrating that the licensee's or registrant's legal name or gender has been changed, the board, upon request by the licensee or registrant, shall update the individual's license or registration by replacing references to the former name or gender on the license or registration, as applicable, with references to the current name or gender.

(2) (A) If the board operates an online license verification system, upon request by a licensee or registrant whose name or gender was updated pursuant to paragraph (1), the board shall replace references to the licensee's or registrant's former name or gender with the individual's current name or gender, as applicable, on the publicly viewable information displayed on the internet about the licensee or registrant. The licensee's or registrant's former name or gender, as applicable, shall not be published online.

(B) Notwithstanding any other law, for licensees or registrants subject to subparagraph (A) who were previously subject to an enforcement action referencing the individual's former name or gender, as applicable, the board shall not post enforcement records online, but shall instead post online a statement stating that the individual previously was subject to enforcement action and directing the public to contact the board for more information about the licensee's or registrant's prior enforcement action. The board shall ensure compliance with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) in implementing this section, including, but not limited to, responding to a request for records within 10 days from receipt of the request, as specified in Section 7922.535 of the Government Code.

(C) If a public search of the online license verification system is performed using a licensee's or registrant's former name that was replaced pursuant to subparagraph (A), the board shall post an online statement directing the public to contact the board for more information about the licensee or registrant.

(3) If requested by the licensee or registrant, the board shall reissue the license created by the board and conferred upon the licensee or registrant by the board. A board shall not charge a higher fee for reissuing a document with an updated legal name or gender than the fee it regularly charges for reissuing a document with other updated information.

(b) (1) The documentation identified in either of the following is required to demonstrate a legal name change of a licensee or registrant:

(A) A certified court order issued pursuant to a proceeding authorized by subdivision (b) of Section 1277 of the Code of Civil Procedure and a copy of the certificate issued under the Secretary of State's Safe at Home program authorized by Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code reflecting the licensee's or registrant's updated name.

(B) A certified court order issued pursuant to a proceeding authorized by Section 1277.5 of the Code of Civil Procedure or Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code reflecting the licensee's or registrant's updated name.

(2) Any of the following documents are sufficient to demonstrate a gender change of a licensee or registrant:

(A) State-issued driver's license or identification card.

(B) Birth certificate.

(C) Passport.

(D) Social security card.

(E) Court order indicating a gender change from a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court.

(c) Notwithstanding any other law, all records related to a request by a licensee or registrant for a board to update the individual's license or registration pursuant to this section, including, but not limited to, all documentation described in subdivision (b), are confidential and not subject to public inspection or disclosure.

(Added by Stats. 2023, Ch. 225, Sec. 1. (SB 372) Effective January 1, 2024.)

§ 30 Provision of Federal Employer Identification Number and Social Security Number By Licensee

(a) (1) Notwithstanding any other law, any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall, at the time of issuance of the license, require that the applicant provide its federal employer identification number, if the applicant is a partnership, or the applicant's social security number for all other applicants.

(2) (A) In accordance with Section 135.5, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall require either the individual taxpayer identification number or social security number if the applicant is an individual for a license or certificate, as defined in subparagraph (2) of subdivision (e), and for purposes of this subdivision.

(B) In implementing the requirements of subparagraph (A), a licensing board shall not require an individual to disclose either citizenship status or immigration status for purposes of licensure.

(C) A licensing board shall not deny licensure to an otherwise qualified and eligible individual based solely on the individual's citizenship status or immigration status.

(D) The Legislature finds and declares that the requirements of this subdivision are consistent with subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) A licensee failing to provide the federal employer identification number, or the individual taxpayer identification number or social security number shall be reported by the licensing board to the Franchise Tax Board. If the licensee fails to provide that information after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, the licensee shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board shall not process an application for an initial license unless the applicant provides its federal employer identification number, or individual taxpayer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board or the Employment Development Department, furnish to the board or the department, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means a person or entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar of California, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board or the Employment Development Department, as applicable.

(g) Licensing boards shall provide to the Franchise Tax Board or the Employment Development Department the information required by this section at a time that the board or the department, as applicable, may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, a federal employer identification number, individual taxpayer identification number, or social security number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) A deputy, agent, clerk, officer, or employee of a licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of their employment or duty, has or has had access to the information required to be furnished under this section, shall not disclose or make known in any manner that information, except as provided pursuant to this section, to the Franchise Tax Board, the Employment Development Department, the Office of the Chancellor of the California Community Colleges, a collections agency contracted to collect funds owed to the State Bar by licensees pursuant to Sections 6086.10 and 6140.5, or as provided in subdivisions (j) and (k).

(j) It is the intent of the Legislature in enacting this section to utilize the federal employer identification number, individual taxpayer identification number, or social security number for the purpose of establishing the identification of persons affected by state tax laws, for purposes of compliance with Section 17520 of the Family Code, for purposes of measuring employment outcomes of students who participate in career technical education programs offered by the California Community Colleges, and for purposes of collecting funds owed to the State Bar by licensees pursuant to Section 6086.10 and Section 6140.5 and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release an individual taxpayer identification number or social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other law, a board, as defined in Section 22, the State Bar of California, and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the individual taxpayer identification number or social security number of each individual listed on the license and any person who qualifies for the license. For the purposes of this subdivision, "licensee" means an entity that is issued a license by any board, as defined in Section 22, the State Bar of California, the Department of Real Estate, and the Department of Motor Vehicles.

(m) The department shall, upon request by the Office of the Chancellor of the California Community Colleges, furnish to the chancellor's office, as applicable, the following information with respect to every licensee:

(1) Name.

(2) Federal employer identification number if the licensee is a partnership, or the licensee's individual taxpayer identification number or social security number for all other licensees.

(3) Date of birth.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(n) The department shall make available information pursuant to subdivision (m) only to allow the chancellor's office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these programs may be improved. Licensure information made available by the department pursuant to this section shall not be used for any other purpose.

(o) The department may make available information pursuant to subdivision (m) only to the extent that making the information available complies with state and federal privacy laws.

(p) The department may, by agreement, condition or limit the availability of licensure information pursuant to subdivision (m) in order to ensure the security of the information and to protect the privacy rights of the individuals to whom the information pertains.

(q) All of the following apply to the licensure information made available pursuant to subdivision (m):

(1) It shall be limited to only the information necessary to accomplish the purpose authorized in subdivision (n).

(2) It shall not be used in a manner that permits third parties to personally identify the individual or individuals to whom the information pertains.

(3) Except as provided in subdivision (n), it shall not be shared with or transmitted to any other party or entity without the consent of the individual or individuals to whom the information pertains.

(4) It shall be protected by reasonable security procedures and practices appropriate to the nature of the information to protect that information from unauthorized access, destruction, use, modification, or disclosure.

(5) It shall be immediately and securely destroyed when no longer needed for the purpose authorized in subdivision (n).

(r) The department or the chancellor's office may share licensure information with a third party who contracts to perform the function described in subdivision (n), if the third party is required by contract to follow the requirements of this section.

(Amended by Stats. 2019, Ch. 351, Sec. 6. (AB 496) Effective January 1, 2020.)

§ 31 Compliance With Judgment or Order for Support Upon Issuance or Renewal of License

(a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Bureau of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.

(c) "Compliance with a judgment or order for support" has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.

(d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.

(e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the California Department of Tax and Fee Administration and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay the licensee's state tax obligation and that licensee's license may be suspended if the state tax obligation is not paid.

(f) For purposes of this section, "tax obligation" means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(Amended by Stats. 2019, Ch. 351, § 7 (AB 496), eff. January 1, 2020.)

§ 40 State Board of Chiropractic Examiners or Osteopathic Medical Board of California Expert Consultant Agreements

(a) Subject to the standards described in Section 19130 of the Government Code, any board, as defined in Section 22, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California may enter into an agreement with an expert consultant to do any of the following:

(1) Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.

(2) Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.

(3) Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

(b) An executed contract between a board and an expert consultant shall be exempt from the provisions of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c) Each board shall establish policies and procedures for the selection and use of expert consultants.

(d) Nothing in this section shall be construed to expand the scope of practice of an expert consultant providing services pursuant to this section.

(Added by Stats. 2011, Ch. 339, § 1 (SB 541), eff. September 26, 2011.)

§ 101.7 Meetings of Boards; Regular and Special

(a) Notwithstanding any other provision of law, boards shall meet at least two times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director has discretion to exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least two times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to webcast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to webcast the meeting. An agency may webcast a meeting even if the agency fails to include that statement of intent in the notice.

(Amended by Stats. 2019, Ch. 351, § 9. (AB 496), eff. January 1, 2020.)

§ 114 Reinstatement of Expired License of Licensee Serving in Military

(a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate their license or registration without examination or penalty, provided that all of the following requirements are satisfied:

(1) The licensee or registrant's license or registration was valid at the time they entered the California National Guard or the United States Armed Forces.

(2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

(c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of applicant's profession while on active duty, then the licensing agency may require the applicant to pass an examination.

(d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which the licensee or registrant is licensed or registered shall be required to maintain their license in good standing even though the licensee or registrant is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which the licensee is prevented from practicing the licensee's profession or vocation shall be excluded from said period of one year.

(Amended by Stats. 2019, Ch. 351, § 17 (AB 796), eff. January 1, 2020.)

§ 114.3 Military Waivers

(a) Notwithstanding any other law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for a licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:

(1) The licensee or registrant possessed a current and valid license with the board at the time the licensee or registrant was called to active duty.

(2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.

(3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.

(b) For purposes of this section, the phrase "called to active duty" shall have the same meaning as "active duty" as defined in Section 101 of Title 10 of the United States Code and shall additionally include individuals who are on active duty in the California National Guard, whether due to proclamation of a state of insurrection pursuant to Section 143 of the Military and Veterans Code or due to a proclamation of a state extreme emergency or when the California National Guard is otherwise on active duty pursuant to Section 146 of the Military and Veterans Code.

(c) (1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect.

(2) If the licensee or registrant will provide services for which the licensee or registrant is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.

(d) In order to engage in any activities for which the licensee or registrant is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.

(e) After a licensee or registrant receives notice of the licensee or registrant's discharge date, the licensee or registrant shall notify the board of their discharge from active duty within 60 days of receiving their notice of discharge.

(f) A board may adopt regulations to carry out the provisions of this section.

(g) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

(Amended by Stats. 2022, Ch. 386, Sec. 1. (SB 1237) Effective January 1, 2023.)

§ 114.5 Military Service

(a) Each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

(b) If a board's governing law authorizes veterans to apply military experience and training towards licensure requirements, that board shall post information on the board's Internet Web site about the ability of veteran applicants to apply military experience and training towards licensure requirements.

(Amended by Stats. 2016, Ch.174, § 1 (SB 1348), eff. January 1, 2017.)

§ 115.4 Military Expedited License

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) Notwithstanding any other law, on and after July 1, 2024, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant is an active duty member of a regular component of the Armed Forces of the United States enrolled in the United States Department of Defense SkillBridge program as authorized under Section 1143(e) of Title 10 of the United States Code.

(c) A board may adopt regulations necessary to administer this section in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) For purposes of this section, the term "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

(Amended by Stats. 2024, Ch. 481, Sec. 1. (SB 1451) Effective January 1, 2025.)

§ 115.5 Expedited Licensure Process

(a) A board within the department shall expedite the licensure process and waive the licensure application fee and the initial or original license fee charged by the board for an applicant who meets both of the following requirements:

(1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board may adopt regulations necessary to administer this section.

(c) For purposes of this section, the term "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

(Amended by Stats. 2024, Ch. 481, Sec. 2. (SB 1451) Effective January 1, 2025.)

§ 115.6 Military Temporary License

(a) (1) Except as provided in subdivision (j), a board within the department shall, after appropriate investigation, issue a temporary license to practice a profession or vocation to an applicant who meets the requirements set forth in subdivisions (c) and (d).

(2) Revenues from fees for temporary licenses issued by the California Board of Accountancy shall be credited to the Accountancy Fund in accordance with Section 5132.

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation within the same scope for which the applicant seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license, and that the information submitted in the application is accurate, to the best of the applicant's knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) (A) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(B) The board shall request a fingerprint-based criminal history information check from the Department of Justice in accordance with subdivision (u) of Section 11105 of the Penal Code and the Department of Justice shall furnish state or federal criminal history information in accordance with subdivision (p) of Section 11105 of the Penal Code.

(d) The applicant shall pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

(e) Except as specified in subdivision (g), a board shall issue a temporary license pursuant to this section within 30 days of receiving documentation that the applicant has met the requirements specified in subdivisions (c) and (d) if the results of the criminal background check do not show grounds for denial.

(f) (1) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or (d) or provided substantively inaccurate information that would affect the person's eligibility for temporary licensure. Upon

termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

(2) Notwithstanding any other law, if, after notice and an opportunity to be heard, a board finds that a temporary licenseholder engaged in unprofessional conduct or any other act that is a cause for discipline by the board, the board shall revoke the temporary license.

(g) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists. The board shall issue a temporary license pursuant to this subdivision within 30 days of receiving documentation that the applicant has met the requirements specified in this subdivision and subdivisions (c) and (d) if the results of the criminal background check do not show grounds for denial.

(h) A temporary license issued pursuant to this section is nonrenewable and shall expire 12 months after issuance, upon issuance or denial of a standard license, upon issuance or denial of a license by endorsement, or upon issuance or denial of an expedited license pursuant to Section 115.5, whichever occurs first.

(i) A board shall submit to the department for approval, if necessary to implement this section, draft regulations necessary to administer this section. These regulations shall be adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(j) (1) This section shall not apply to a board that has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements superseding those described in subdivisions (c) and (d).

(2) This section shall apply only to the extent that it does not amend an initiative or violate constitutional requirements.

(k) An applicant for a temporary license pursuant to this section shall not be required to provide, and no board shall collect, a fee for the application or issuance of a temporary license.

(l) For purposes of this section, the term "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

(Amended by Stats. 2024, Ch. 481, Sec. 3. (SB 1451) Effective January 1, 2025.)

§ 123 Subversion of Licensing Examination

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or

printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf. Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law. In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars ($10,000) and the costs of litigation.

(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(Amended by Stats. 1991, Ch. 647, § 1.)

§ 123.5 Restraining Order

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

(Added by renumbering § 497 by Stats. 1989, Ch. 1022, § 4.)

§ 125 Conspiracy With Unlicensed Person

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to them, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

(a) Allows their license to be used by that person.

(b) Acts as their agent or partner.

(Amended by Stats. 2019, Ch. 351, § 26 (AB 496), eff. January 1, 2020.)

§ 125.3 Investigation and Enforcement Costs; Payment by Licentiate

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a

finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licensee. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

(Amended by Stats. 2019, Ch. 351, § 27 (AB 496), eff. January 1, 2020. Note: This section originated in Stats. 1992, Ch. 1289.)

§ 125.6 Unprofessional Conduct—Discrimination

(a) (1) With regard to an applicant, every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, the person makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which the person is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

(Amended by Stats. 2019, Ch. 351, § 28 (AB 496), eff. January 1, 2020.)

§ 125.9 Citations

(a) A board, bureau, or commission within the department, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars ($5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars ($5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(5) Failure of a licensee to pay a fine or comply with an order of abatement, or both, within 30 days of the date of assessment or order, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(c) The system may contain the following provisions:

(1) A citation may be issued without the assessment of an administrative fine.

(2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.

(d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine and compliance with the order of abatement, if applicable, shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

(Amended by Stats. 2024, Ch. 484, Sec. 1. (SB 1454) Effective January 1, 2025.)

§ 129 Handling of Complaints; Reports to Legislature

(a) As used in this section, "board" means every board, bureau, commission, committee, and similarly constituted agency in the department that issues licenses.

(b) Each board shall, upon receipt of any complaint respecting an individual licensed by the board, notify the complainant of the initial administrative action taken on complainant's complaint within 10 days of receipt. Each board shall notify the complainant of the final action taken on complainant's complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means to secure the relief sought. The board shall notify the complainant of this action and of any other means that may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licensee in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licensee.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to those patterns of complaints to the director and to the Legislature at least once per year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once per year the statutory changes it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

(f) Notwithstanding any other law, upon receipt of a child custody evaluation report submitted to a court pursuant to Chapter 6 (commencing with Section 3110) of Part 2 of Division 8 of the Family Code, the board shall notify the noncomplaining party in the underlying custody dispute, who is a subject of that report, of the pending investigation.

(Amended by Stats. 2019, Ch. 351, § 31 (AB 496), eff. January 1, 2020.)

§ 135.4 Refugees, Asylees, and Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process

(a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) Nothing in this section shall be construed as changing existing licensure requirements. A person applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.

(c) A board may adopt regulations necessary to administer this section.

(d) For purposes of this section, "applicant" refers to an applicant for an individual license and does not refer to applicants for business or entity licenses.

(Amended by Stats. 2024, Ch. 481, Sec. 4. (SB 1451) Effective January 1, 2025.)

§ 135.5 Citizenship/Immigration Status

(a) The Legislature finds and declares that it is in the best interests of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within the department, and therefore enacts this section pursuant to subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding subdivision (a) of Section 30, and except as required by subdivision (e) of Section 7583.23, no entity within the department shall deny licensure to an applicant based on his or her citizenship status or immigration status.

(c) Every board within the department shall implement all required regulatory or procedural changes necessary to implement this section no later than January 1, 2016. A board may implement the provisions of this section at any time prior to January 1, 2016.

(Added by Stats. 2014, Ch. 752, § 2 (SB 1159), eff. January 1, 2015.)

§ 143.5 Agreements Not to Cooperate with Licensing Entity

(a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, "board" shall have the same meaning as defined in Section 22, and "licensee" means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board's, bureau's, or program's enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board's, bureau's, or program's duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

(Added by Stats. 2012, Ch. 561, § 1 (AB 2570), eff. January 1, 2013.)

§ 144 Requirement of Fingerprints for Criminal Record Checks; Applicability

(a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

(5) Dental Board of California.

(6) California State Board of Pharmacy.

(7) Board of Registered Nursing.

(8) California Veterinary Medical Board.

(9) Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(10) Respiratory Care Board of California.

(11) Physical Therapy Board of California.

(12) Physician Assistant Board.

(13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

(14) Medical Board of California.

(15) California State Board of Optometry.

(16) Acupuncture Board.

(17) Cemetery and Funeral Bureau.

(18) Bureau of Security and Investigative Services.

(19) Division of Investigation.

(20) Board of Psychology.

(21) California Board of Occupational Therapy.

(22) Structural Pest Control Board.

(23) Contractors State License Board.

(24) California Board of Naturopathic Medicine.

(25) Professional Fiduciaries Bureau.

(26) Board for Professional Engineers, Land Surveyors, and Geologists.

(27) Podiatric Medical Board of California.

(28) Osteopathic Medical Board of California.

(29) California Architects Board, beginning January 1, 2021.

(30) Landscape Architects Technical Committee, beginning January 1, 2022.

(31) Bureau of Household Goods and Services with respect to household movers as described in Chapter 3.1 (commencing with Section 19225) of Division 8.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

(Amended by Stats. 2024, Ch. 497, Sec. 1. (SB 1526) Effective January 1, 2025.)

§ 208 Fees Assessed at Renewal for Funding of the CURES Program

(a) Beginning April 1, 2023, a Controlled Substance Utilization Review and Evaluation System (CURES) fee of nine dollars ($9) shall be assessed annually on each of the licensees specified in subdivision (b) to pay the reasonable costs associated with operating and maintaining CURES for the purpose of regulating those licensees. The fee assessed pursuant to this subdivision shall be billed and collected by the regulating agency of each licensee at the time of the licensee's license renewal. If the reasonable regulatory cost of operating and maintaining CURES is less than nine dollars ($9) per licensee, the Department of Consumer Affairs, by regulation, may reduce the fee established by this section to the reasonable regulatory cost.

(b) (1) Licensees authorized pursuant to Section 11150 of the Health and Safety Code to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances or pharmacists licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2.

(2) Licensees issued a license that has been placed in a retired or inactive status pursuant to a statute or regulation are exempt from the CURES fee requirement in subdivision (a). This exemption shall not apply to licensees whose license has been placed in a retired or inactive status if the licensee is at any time authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances.

(3) Wholesalers, third-party logistics providers, nonresident wholesalers, and nonresident third-party logistics providers of dangerous drugs licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2.

(4) Nongovernmental clinics licensed pursuant to Article 13 (commencing with Section 4180) and Article 14 (commencing with Section 4190) of Chapter 9 of Division 2.

(5) Nongovernmental pharmacies licensed pursuant to Article 7 (commencing with Section 4110) of Chapter 9 of Division 2.

(c) The funds collected pursuant to subdivision (a) shall be deposited in the CURES Fund, which is hereby created within the State Treasury. Moneys in the CURES Fund, upon appropriation by the Legislature, shall be available to the Department of Consumer Affairs to reimburse the Department of Justice for costs to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

(d) The Department of Consumer Affairs shall contract with the Department of Justice on behalf of the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Board, the Osteopathic Medical Board of California, the California Board of Naturopathic Medicine, the State Board of Optometry, and the Podiatric Medical Board of California to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

(e) This section shall become operative on April 1, 2023.

(f) This section shall become inoperative on April 1, 2025, and, as of January 1, 2026, is repealed.

(Amended (as amended by Stats. 2024, Ch. 41, Sec. 2) by Stats. 2024, Ch. 497, Sec. 4. (SB 1526) Effective January 1, 2025. Inoperative April 1, 2025, by its own provisions. Repealed as of January 1, 2026, by its own provisions. See later operative version, as amended by Sec. 5 of Stats. 2024, Ch. 497.)

§ 208 Fees Assessed at Renewal for Funding of the CURES Program [Operative April 1, 2025]

(a) Beginning April 1, 2025, a Controlled Substance Utilization Review and Evaluation System (CURES) fee of fifteen dollars ($15) shall be assessed annually on each of the licensees specified in subdivision (b) to pay the reasonable costs associated with operating and maintaining CURES for the purpose of regulating those licensees. The fee assessed pursuant to this subdivision shall be billed and collected by the regulating agency of each licensee at the time of the licensee's license renewal. If the reasonable regulatory cost of operating and maintaining CURES is less than fifteen dollars ($15) per licensee, the Department of Consumer Affairs, by regulation, may reduce the fee established by this section to the reasonable regulatory cost.

(b) (1) Licensees authorized pursuant to Section 11150 of the Health and Safety Code to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances or pharmacists licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2.

(2) Licensees issued a license that has been placed in a retired or inactive status pursuant to a statute or regulation are exempt from the CURES fee requirement in subdivision (a). This exemption shall not apply to licensees whose license has been placed in a retired or inactive status if the licensee is at any time authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, or Schedule IV controlled substances.

(3) Wholesalers, third-party logistics providers, nonresident wholesalers, and nonresident third-party logistics providers of dangerous drugs licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2.

(4) Nongovernmental clinics licensed pursuant to Article 13 (commencing with Section 4180) and Article 14 (commencing with Section 4190) of Chapter 9 of Division 2.

(5) Nongovernmental pharmacies licensed pursuant to Article 7 (commencing with Section 4110) of Chapter 9 of Division 2.

(c) The funds collected pursuant to subdivision (a) shall be deposited in the CURES Fund, which is hereby created within the State Treasury. Moneys in the CURES Fund, upon appropriation by the Legislature, shall be available to the Department of Consumer Affairs to reimburse the Department of Justice for costs to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

(d) The Department of Consumer Affairs shall contract with the Department of Justice on behalf of the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Board, the Osteopathic Medical Board of California, the California Board of Naturopathic Medicine, the State Board of Optometry, and the Podiatric Medical Board of California to operate and maintain CURES for the purposes of regulating the licensees specified in subdivision (b).

(e) This section shall become operative on April 1, 2025.

(Amended (as added by Stats. 2024, Ch. 41, Sec. 3) by Stats. 2024, Ch. 497, Sec. 5. (SB 1526) Effective January 1, 2025. Operative April 1, 2025, by its own provisions.)

§ 315 Establishment of Substance Abusing Coordination Committee; Members; Duties

(a) For the purpose of determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees, there is established in the Department of Consumer Affairs the Substance Abuse Coordination Committee. The committee shall be comprised of the executive officers of the department's healing arts boards established pursuant to Division 2 (commencing with Section 500), the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and a designee of the State Department of Health Care Services. The Director of Consumer Affairs shall chair the committee and may invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee.

(b) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

(c) By January 1, 2010, the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program:

(1) Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

(2) Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in paragraph (1) and any treatment recommended by the evaluator described in paragraph (1) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

(3) Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status and condition.

(4) Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

(5) Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

(6) Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

(7) Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

(8) Procedures to be followed when a licensee tests positive for a banned substance.

(9) Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

(10) Specific consequences for major violations and minor violations. In particular, the committee shall consider the use of a "deferred prosecution" stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

(11) Criteria that a licensee must meet in order to petition for return to practice on a full-time basis.

(12) Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

(13) If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.

(14) If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

(15) If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

(16) Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

(d) Notwithstanding any other law, by January 1, 2019, the committee shall review the existing criteria for Uniform Standard #4 established pursuant to paragraph (4) of subdivision (c). The committee's review and findings shall determine whether the existing criteria for Uniform Standard #4 should be updated to reflect recent developments in testing research and technology. The committee shall consider information from, but not limited to, the American Society of Addiction Medicine, and other sources of best practices.

(Amended by Stats. 2017, Ch. 600, § 1 (SB 796) eff. January 1, 2018.)

§ 315.2 Cease Practice Order

(a) A board, as described in Section 315, shall order a licensee of the board to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

(Added by Stats. 2010, Ch. 517, § 2 (SB 1172), eff. January 1, 2011.)

§ 315.4 Cease Practice Order for Violation of Probation or Diversion Program

(a) A board, as described in Section 315, may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315.

(b) An order to cease practice under this section shall not be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A cease practice order under this section shall not constitute disciplinary action.

(d) This section shall have no effect on the Board of Registered Nursing pursuant to Article 3.1 (commencing with Section 2770) of Chapter 6 of Division 2.

(Added by Stats. 2010, Ch. 517, § 3 (SB 1172), eff. January 1, 2011.)

§ 475 Applicability of Division

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

(Amended by Stats. 1992, Ch. 1289, § 5, eff. January 1, 1993.)

§ 476 Exemptions

(a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

(Amended by Stats. 2011, Ch. 455, § 2 (AB 1424), eff. January 1, 2012.)

§ 477 "Board"; "License"

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

(Amended by Stats. 1991, Ch. 654, § 5.)

§ 478 "Application"; "Material"

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

(Added by Stats. 1992, Ch. 1289, § 6, eff. January 1, 1993.)

§ 480 Grounds for Denial

(a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 6 (commencing with Section 6500) of Division 3.

(ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or relations with a patient pursuant to Section 726 or sexual exploitation as defined in subdivision (a) of Section 729.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(Amended by Stats. 2022, Ch. 453, Sec. 1. (AB 1636) Effective January 1, 2023.)

§ 480.5 Denial of Licenses

a) An individual who has satisfied any of the requirements needed to obtain a license regulated under this division while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing his or her application or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

(b) Nothing in this section shall be construed to apply to a petition for reinstatement of a license or to limit the ability of a board to deny a license pursuant to Section 480.

(c) This section shall not apply to the licensure of individuals under the initiative act referred to in Chapter 2 (commencing with Section 1000) of Division 2.

(Added by Stats. 2014, Ch. 410, § 1 (AB 1702), eff. January 1, 2015)

§ 481 Crime and Job Fitness Criteria

(a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense.

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

(Repealed and added by Stats. 2018, Ch. 995, Sec. 7. (AB 2138) Effective January 1, 2019. Section operative July 1, 2020, by its own provisions.)

§ 482 Criteria for Rehabilitation

(a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

(Repealed and added by Stats. 2018, Ch. 995, § 9 (AB 2138), eff. January 1, 2019. Section operative July 1, 2020, by its own provisions.)

§ 484 Attestation to Good Moral Character of Applicant

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

(Amended by Stats. 1974, Ch. 1321.)

§ 485 Procedure for Board Upon Denial

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

(Amended by Stats. 1997, Ch. 758, § 2.3, eff. January 1, 1998.)

§ 486 Reapplication After Denial

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

(a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

(Amended by Stats. 1997, Ch. 758, § 2.4, eff. January 1, 1998.)

§ 487 Hearing Time

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

(Amended by Stats. 1986, Ch. 220, § 1, eff. June 30, 1986.)

§ 488 Hearing Request

(a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

(Repealed and added by Stats. 2018, Ch. 995, § 11 (AB 2138), eff. January 1, 2019. Section operative July 1, 2020, by its own provisions.)

§ 489 Denial of Application Without a Hearing

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section

11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

(Amended by Stats. 1997, Ch. 758, § 2.5, eff. January 1, 1998.)

§ 490 Conviction of a Crime—Substantial Relationship Criteria

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in Petropoulos v. Department of Real Estate (2006) 142 Cal. App. 4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

(Amended by Stats. 2010, Ch. 328, § 2, eff. January 1, 2011.)

§ 495 Public Reproval of Licentiate or Certificate Holder for Act Constituting Grounds for Suspension or Revocation of License or Certificate; Proceedings

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproval, public reproval and suspension, or public reproval and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

(Amended by Stats. 1997, Ch. 220, § 2, eff. August 4, 1997.)

§ 496 Violation of Exam Security

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

(Repealed and added by Stats. 1989, Ch. 1022, § 3.)

§ 580 Sale of Degree

No person, company, or association shall sell or barter or offer to sell or barter any medical degree, podiatric degree, or osteopathic degree, or chiropractic degree, or any other degree which is required for licensure, certification, or registration under this division, or any degree, certificate, transcript, or any other writing, made or purporting to be made pursuant to any laws regulating the licensing and registration or issuing of a certificate to physicians and surgeons, podiatrists, osteopathic physicians, chiropractors, persons lawfully engaged in any other system or mode of treating the sick or afflicted, or to any other person licensed, certified, or registered under this division.

(Amended by Stats. 1986, Ch. 220, § 2, eff. June 30, 1986.)

§ 581 Unlawful Procurement or Alteration

No person, company, or association shall purchase or procure by barter or by any unlawful means or method, or have in possession any diploma, certificate, transcript, or any other writing with intent that it shall be used as evidence of the holder's qualifications to practice as a physician and surgeon, osteopathic physician, podiatrist, any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000), or to practice as any other licentiate under this division or in any fraud of the law regulating this practice or, shall with fraudulent intent, alter in a material regard, any such diploma, certificate, transcript, or any other writing.

(Amended by Stats. 1986, Ch. 220, § 3, eff. June 30, 1986.)

§ 582 Use of Fraudulent Records

No person, company, or association shall use or attempt to use any diploma, certificate, transcript, or any other writing which has been purchased, fraudulently issued, illegally obtained, counterfeited, or materially altered, either as a certificate or as to character or color of certificate, to practice as a physician and surgeon, podiatrist, osteopathic physician, or a chiropractor, or to practice any other system or mode of treating the sick or afflicted, as provided in the Medical Practice Act, Chapter 5 (commencing with Section 2000) or to practice as any other licentiate under this division.

(Amended by Stats. 1986, Ch. 220, § 4, eff. June 30, 1986.)

§ 583 False Statements in Affidavits

No person shall in any document or writing required of an applicant for examination, license, certificate, or registration under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, willfully make a false statement in a material regard.

(Amended by Stats. 1986, Ch. 220, § 5, eff. June 30, 1986.)

§ 584 Impersonation at Examinations

No person shall violate the security of any examination, as defined in subdivision (a) of Section 123, or impersonate, attempt to impersonate, or solicit the impersonation of, another in any examination for a license, certificate, or registration to practice as provided in this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or under any other law providing for the regulation of any other system or method of treating the sick or afflicted in this state.

(Amended by Stats. 1989, Ch. 1022, § 5.)

§ 650 Consideration for Referrals Prohibited

(a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients that is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be authorized only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic, including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code, or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and as subsequently amended.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) Notwithstanding this section or any other law, the payment or receipt of consideration for advertising, wherein a licensee offers or sells services through a third-party advertiser, shall not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The fee paid to the third-party advertiser shall be commensurate with the service provided by the third-party advertiser. If the licensee determines, after consultation with the purchaser of the service, that the service provided by the licensee is inappropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the third-party advertiser and the licensee. The licensee shall disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if ineligible to receive the service. This subdivision shall not apply to basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code, or essential health benefits, as defined in Section 1367.005 of the Health and Safety Code and Section 10112.27 of the Insurance Code. The entity that provides the advertising shall be able to demonstrate that the licensee consented in writing to the requirements of this subdivision. A third-party advertiser shall make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region. In any advertisement offering a discount price for a service, the licensee shall also disclose the regular, nondiscounted price for that service.

(h) To the extent consistent with federal law, regulations, or guidance, the payment or receipt of consideration for internet-based advertising, appointment booking, or any service that provides information and resources to prospective patients of licensees shall not constitute a referral of a patient if the internet-based service provider does not recommend or endorse a specific licensee to a prospective patient.

(i) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by that imprisonment and a fine of fifty thousand dollars ($50,000).

(Amended by Stats. 2021, Ch. 439, Sec. 3. (AB 457) Effective January 1, 2022.)

§ 650.01 Prohibited Referrals: Financial Interests

(a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or their immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of their research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for their ongoing services in making refinements to their medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient. A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means all of the following:

(A) A physician as defined in Section 3209.3 of the Labor Code.

(B) A nurse practitioner practicing pursuant to Section 2837.103 or 2837.104.

(C) A certified nurse-midwife as described in Article 2.5 (commencing with Section 2746) of Chapter 6, acting within their scope of practice.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety

Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. In the case of a licensee who is a physician and surgeon, the Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. In the case of a licensee who is a certified nurse-midwife, the Board of Registered Nursing shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars ($5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars ($15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California, the Board of Registered Nursing, or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

(Amended by Stats. 2020, Ch. 265, Sec. 1.5. (AB 890) Effective January 1, 2021.)

§ 650.02 Location of Practice: Financial Interest Disclosed

The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or

should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars ($75,000,000).

(4) Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company's most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars ($75,000,000).

(5) A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party's referral of any person or the volume of services provided by either party.

(6) A personal services arrangement between a licensee or an immediate family member of the licensee and the recipient of the referral if the arrangement meets all of the following requirements:

(A) It is set out in writing and is signed by the parties.

(B) It specifies all of the services to be provided by the licensee or an immediate family member of the licensee.

(C) The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.

(D) A person who is referred by a licensee or an immediate family member of the licensee is informed in writing of the personal services arrangement that includes information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (l) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(l) This section shall become operative on January 1, 1995.

(Amended by Stats. 2002, Ch. 309, § 1, eff. January 1, 2003.)

§ 650.1 Prohibited Arrangements: Pharmaceutical Services

(a) Any amount payable to any hospital, as defined in Section 4028, or any person or corporation prohibited from pharmacy permit ownership by subdivision (a) of Section 4111 under any rental, lease or service arrangement with respect to the furnishing or supply of pharmaceutical services and products, which is determined as a percentage, fraction, or portion of (1) the charges to patients or of (2) any measure of hospital or pharmacy revenue or cost, for pharmaceuticals and pharmaceutical services is prohibited.

(b) Any lease or rental arrangement existing on the effective date of this section shall be in full compliance with subdivision (a) by January 1, 1986.

(c) Any lease or rental agreement entered into prior to January 1, 1980, that extends beyond the effective date of this section shall be construed to be in compliance with this section until its expiration or the expiration of any option which is contained in any such lease or rental agreement provided that the lease or rental agreement contains provisions which limit pharmacy charges to the amounts not in excess of the prevailing charges in similar hospitals in the general geographic area.

(d) The California State Board of Pharmacy, the Medical Board of California, and the State Department of Health Services shall enforce this section and may require information from any person as is necessary for the enforcement of this section. It shall be the duty of the licensees of the respective regulatory agencies to produce the requisite evidence to show compliance with this section. Violations of this section shall be deemed to be the mutual responsibility of both lessee and lessor, and shall be grounds for disciplinary action or other sanctions against both.

(Amended by Stats. 2000, Ch. 836, § 1, eff. January 1, 2001.)

§ 651 Advertising: Fraudulent, Misleading, or Deceptive

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements

approved by that physician and surgeon's licensing board, prior to January 1, 2019, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience. A multidisciplinary board or association approved by the Medical Board of California prior to January 1, 2019, shall retain that approval.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, prior to January 1, 2019, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

(D) A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California or a doctor or podiatric medicine licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 by the California Board of Podiatric Medicine who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

(Amended by Stats. 2017, Ch. 775, Sec. 6 (SB 798) Effective January 1, 2018.)

§ 654 Prohibited Arrangements: Opticians and Physicians

No person licensed under Chapter 5 (commencing with Section 2000) of this division may have any membership, proprietary interest or coownership in any form in or with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division to whom patients, clients or customers are referred or any profit-sharing arrangements.

(Amended by Stats. 1979, Ch. 688.)

§ 654.1 Prohibited Referrals

Persons licensed under Chapter 4 (commencing with Section 1600) of this division or licensed under Chapter 5 (commencing with Section 2000) of this division or licensed under any initiative act referred to in this division relating to osteopaths may not refer patients, clients, or customers to any clinical laboratory licensed under Section 1265 in which the licensee has any membership, proprietary interest, or coownership in any form, or has any profit-sharing arrangement, unless the licensee at the time of making such referral discloses in writing such interest to the patient, client, or customer. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed.

This section shall not apply to persons who are members of a medical group which contracts to provide medical care to members of a group practice prepayment plan registered under the Knox-Keene Health Care Service Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

This section shall not apply to any referral to a clinical laboratory which is owned and operated by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or such assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, providing the report indicates clearly the laboratory performing the test.

"Proprietary interest" does not include ownership of a building where space is leased to a clinical laboratory at the prevailing rate under a straight lease arrangement.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine. A second or subsequent conviction shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(Amended by Stats. 2011, Ch. 15, § 4 (AB 109), eff. April 4, 2011. Operative October 1, 2011, by § 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, § 68.)

§ 654.2 Prohibited Referrals and Billings

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) On and after July 1, 1987, persons licensed under this division or under any initiative act referred to in this division shall disclose in writing to any third-party payer for the patient, when requested by the payer, organizations in which the licensee, or any member of the licensee's immediate family, has a significant beneficial interest and to which patients are referred. The third-party payer shall not request this information from the provider more than once a year.

Nothing in this section shall be construed to serve as the sole basis for the denial or delay of payment of claims by third party payers.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars ($5,000).

(3) A third-party payer includes any health care service plan, self-insured employee welfare benefit plan, disability insurer, nonprofit hospital service plan, or private group or indemnification insurance program.

A third party payer does not include a prepaid capitated plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 or Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(f) (1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

(Amended by Stats. 1986, Ch. 881, § 1.)

§ 654.3 Credit or Loan for Health Care Services

(a) For purposes of this section, the following definitions shall apply:

(1) "Arrange for" and "establish" mean the act of a licensee, or an employee or agent of that licensee, receiving application information from the applicant and submitting it to the lender for approval or rejection.

(2) "Deferred interest provision" means a contractual provision that allows for interest to be charged on portions of the original balance that have already been paid off.

(3) "Licensee" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association licensed under this division or under any initiative act or division referred to in this division.

(4) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(5) "Open-end credit" means credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan, up to any limit set by the creditor, is generally made available to the extent that any outstanding balance is repaid.

(6) (A) "Patient" includes, but is not limited to, the patient's parent or other legal representative.

(B) In veterinary medical settings, "patient" means one of the following, as indicated by context:

(i) If the patient is receiving the services, the owned animal of a client.

(ii) If the patient is agreeing to or paying for services, the client owner of an animal patient.

(b) (1) It is unlawful for a licensee, or employee or agent of that licensee, to arrange for or establish an open-end credit or loan that contains a deferred interest provision.

(2) This subdivision shall not be construed as prohibiting a licensee, or employee or agent of a licensee, from doing any of the following:

(A) Charging treatment or costs to an open-end credit or loan that is lawfully extended by a third party, including those that contain deferred interest provisions.

(B) Arranging for or establishing an open-end credit or loan that does any of the following:

(i) Offers a promotional period during which a debtor may avoid the payment of interest in connection with an open-end credit plan.

(ii) At the end of a promotional period, charges interest on any unpaid balance remaining at that time.

(iii) Imposes a late fee on a debtor who fails to pay the minimum amount due during any payment period.

(c) (1) It is unlawful for a licensee, or employee or agent of that licensee, to charge treatment or costs to an open-end credit or loan, that is extended by a third party and that is arranged for, or established in, that licensee's office, more than 30 days before the date upon which the treatment is rendered or costs are incurred.

(2) This subdivision does not apply to orthodontic treatment provided by a licensed dentist who may charge incremental fees throughout the course of treatment.

(d) It is unlawful for a licensee, or employee or agent of that licensee, to charge treatment or costs to an open-end credit or loan that is extended by a third party and that is arranged for, or established in, that licensee's office without first providing the patient with a treatment plan, as required by subdivision (h), and a list of which treatment and services are being charged in advance of rendering treatment or incurring costs.

(e) It is unlawful for a licensee, or employee or agent of a licensee, to complete any portion of an application for credit or a loan extended by a third party for the patient or otherwise arrange for or establish an application that is not completely filled out by the patient.

(f) A licensee shall, within 15 business days of a patient's request, refund to the lender any payment received through credit or a loan extended by a third party that is arranged for, or established in, that licensee's office for treatment that has not been rendered or costs that have not been incurred.

(g) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient without first providing the following written or electronic notice, on one page or screen, respectively, in at least 14-point type, and obtaining a signature from the patient:

"Credit or Loan for Health Care Services

The attached application and information is for a credit card or loan to help you pay for your health care treatment. You should know that:

You are applying for a ____ credit card or a ____ loan for $____.

You do not have to apply for the credit card or the loan. You may request a different place and additional time to review, fill out, and sign the application. You may pay your health care provider for treatment in another manner.

This credit card or loan is not a payment plan with the provider's office. It is credit with, or a loan made by, [name of company issuing the credit card or loan]. Your health care provider does not work for this company.

Before applying for this credit card or loan, you have the right to a written treatment plan from your health care provider. This plan must include the expected treatment to be provided and the estimated costs of each service. If you have insurance, the treatment plan must tell you how much your insurance is expected to cover. If you are a Medi-Cal patient seeking services from a Medi-Cal provider, your treatment plan must tell you if Medi-Cal will cover a different service to treat your condition. If you only want services covered by Medi-Cal, you should not sign up for this credit card or loan.

Your health care provider cannot charge your credit card or loan account before you start treatment.

You have the right to have your credit card or loan account refunded for any charges for treatment you did not get. However, your provider does not have to refund the amount they spent to prepare for your treatment. Your health care provider must refund the amount of the charges to the lender within 15 business days of your request. The lender must take refunded charges off your account.

Please read carefully the terms and conditions of this credit card or loan.

You may be required to pay interest rates on the amount charged to the credit card or the amount of the loan. If you pay late, you may have to pay a penalty and a higher interest rate.

You may use this credit card or loan to pay for future health care services.

If you do not pay the money that you owe on the credit card or loan, your missed payments can be reported and could hurt your credit rating. You could also be sued.

[Patient's Signature]"

(h) Before arranging for or establishing credit or a loan extended by a third party, a licensee shall give a patient a written treatment plan that complies with all of the following:

(1) The treatment plan shall include each anticipated service to be provided and the estimated cost of each service.

(2) If a patient is covered by a private or government medical benefit plan or medical insurance from which the licensee takes assignment of benefits, the treatment plan shall indicate the patient's private or government-estimated share of cost for each service.

(3) If the licensee accepts Medi-Cal, the treatment plan for a Medi-Cal patient shall indicate if Medi-Cal would cover an alternate, medically necessary service as defined in Section 14059.5 of the Welfare and Institutions Code. The treatment plan shall indicate that the Medi-Cal patient has a right to ask for only services covered by Medi-Cal and that the licensee agrees to follow Medi-Cal rules to secure Medi-Cal covered services before treatment.

(4) If the licensee does not take assignment of benefits from a patient's medical benefit plan or insurance, the treatment plan shall indicate that the treatment may or may not be covered by a patient's medical benefit or insurance plan, and that the patient has the right to confirm medical benefit or insurance information from the patient's plan, insurer, or employer before beginning treatment.

(i) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan extended by a third party for a patient with whom the licensee, or an employee or agent of that licensee, communicates primarily in a language other than English that is one of the Medi-Cal threshold languages, unless the written notice information required by subdivision (g) is also provided in that language.

(j) (1) A licensee, or an employee or agent of that licensee, shall not arrange for or establish credit or a loan that is extended by a third party for a patient under either of the following circumstances:

(A) The patient has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide.

(B) The patient is in a treatment area, including, but not limited to, an exam room, surgical room, or other area where medical treatment is administered, unless the patient agrees to fill out and sign the application to arrange for or establish credit or a loan in the treatment area.

(2) Paragraph (1) shall not apply to veterinary medicine. Any credit or loan application offered to an owner of an animal shall be filled out by the owner.

(k) A patient who suffers any damage as a result of the use or employment by any person of a method, act, or practice that willfully violates this section may seek the relief provided by Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4 of Division 3 of the Civil Code.

(l) The rights, remedies, and penalties set forth in this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.

(m) This section shall become operative on July 1, 2020.

(Repealed (in Sec. 1) and added by Stats. 2019, Ch. 856, Sec. 2. (SB 639) Effective January 1, 2020. Section operative July 1, 2020, by its own

provisions.)

§ 655.5 Solicitation of Payment for Laboratory Services

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division, or any clinical laboratory, or any health facility when billing for a clinical laboratory of the facility, to charge, bill, or otherwise solicit payment from any patient, client, or customer for any clinical laboratory service not actually rendered by the person or clinical laboratory or under his, her or its direct supervision unless the patient, client, or customer is apprised at the first time of the charge, billing, or solicitation of the name, address, and charges of the clinical laboratory performing the service. The first such written charge, bill, or other solicitation of payment shall separately set forth the name, address, and charges of the clinical laboratory concerned and shall clearly show whether or not the charge is included in the total of the account, bill, or charge. This subdivision shall be satisfied if the required disclosures are made to the third-party payer of the patient, client, or customer. If the patient is responsible for submitting the bill for the charges to the third-party payer, the bill provided to the patient for that purpose shall include the disclosures required by this section. This subdivision shall not apply to a clinical laboratory of a health facility or a health facility when billing for a clinical laboratory of the facility nor to a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges. For purposes of this subdivision, "health facility" has the same meaning as defined in Section 1250 of the Health and Safety Code.

(b) Commencing July 1, 1994, a clinical laboratory shall provide to each of its referring providers, upon request, a schedule of fees for services provided to patients of the referring provider. The schedule shall be provided within two working days after the clinical laboratory receives the request. For the purposes of this subdivision, a "referring provider" means any provider who has referred a patient to the clinical laboratory in the preceding six-month period. Commencing July 1, 1994, a clinical laboratory that provides a list of laboratory services to a referring provider or to a potential referring provider shall include a schedule of fees for the laboratory services listed.

(c) It is also unlawful for any person licensed under this division or under any initiative act referred to in this division to charge additional charges for any clinical laboratory service that is not actually rendered by the licensee to the patient and itemized in the charge, bill, or other solicitation of payment. This section shall not be construed to prohibit any of the following:

(1) Any itemized charge for any service actually rendered to the patient by the licensee.

(2) Any summary charge for services actually rendered to a patient by a health facility, as defined in Section 1250 of the Health and Safety Code, or by a person licensed under this division or under any initiative act referred to in this division if the standardized billing form used by the facility or person requires a summary entry for all clinical laboratory charges.

(d) As used in this section, the term "any person licensed under this division" includes a person licensed under paragraph (1) of subdivision (a) of Section 1265, all wholly owned subsidiaries of the person, a parent company that wholly owns the person, and any subsidiaries wholly owned by the same parent that wholly owns the person. "Wholly owned" means ownership directly or through one or more subsidiaries. This section shall not apply to billings by a person licensed under paragraph (1) of subdivision (a) of Section 1265 when the person licensed under paragraph (1) of subdivision (a) of Section 1265 bills for services performed by any laboratory owned or operated by the person licensed under paragraph (1) of subdivision (a) of Section 1265.

(e) This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if the services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

(f) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(g) (1) Notwithstanding subdivision (f), a violation of this section by a physician and surgeon for a first offense shall be subject to the exclusive remedy of reprimand by the Medical Board of California if the transaction that is the subject of the violation involves a charge for a clinical laboratory service that is less than the charge would

have been if the clinical laboratory providing the service billed a patient, client, or customer directly for the clinical laboratory service, and if that clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees pursuant to subdivision (b).

(2) Nothing in this subdivision shall be construed to permit a physician and surgeon to charge more than he or she was charged for the laboratory service by the clinical laboratory providing the service unless the additional charge is for service actually rendered by the physician and surgeon to the patient.

(Amended by Stats. 2011, Ch. 15, Sec. 5. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

§ 680 Name Tags; Display

(a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

(b) Facilities licensed by the State Department of Social Services, the State Department of Public Health, or the State Department of Health Care Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Public Health, and the State Department of Health Care Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.

(c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

(Amended by Stats. 2013, Ch. 23, § 1 (AB 82), eff. June 27, 2013.)

§ 680.5 Additional Disclosures of Specified Information

(a) (1) A health care practitioner licensed under Division 2 (commencing with Section 500) shall communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree, by one or both of the following methods:

(A) In writing at the patient's initial office visit.

(B) In a prominent display in an area visible to patients in his or her office.

(2) An individual licensed under Chapter 6 (commencing with Section 2700) or Chapter 9 (commencing with Section 4000) is not required to disclose the highest level of academic degree he or she holds.

(b) A person licensed under Chapter 5 (commencing with Section 2000) or under the Osteopathic Act, who is certified by (1) an American Board of Medical Specialties member board, (2) a board or association with requirements equivalent to a board described in paragraph (1) approved by that person's medical licensing authority, or (3) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in the person's specialty or subspecialty, shall disclose the name of the board or association by either method described in subdivision (a).

(c) A health care practitioner who chooses to disclose the information required by subdivisions (a) and (b) pursuant to subparagraph (A) of paragraph (1) of subdivision (a) shall present that information in at least 24-point type in the following format:

HEALTH CARE PRACTITIONER INFORMATION

1. Name and license _____

2. Highest level of academic degree _____

3. Board certification (ABMS/MBC) _____

(d) This section shall not apply to the following health care practitioners:

(1) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(2) A person who works in a facility licensed under Section 1250 of the Health and Safety Code or in a clinical laboratory licensed under Section 1265.

(3) A person licensed under Chapter 3 (commencing with Section 1200), Chapter 7.5 (commencing with Section 3300), Chapter 8.3 (commencing with Section 3700), Chapter 11 (commencing with Section 4800), Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990.1), or Chapter 16 (commencing with Section 4999.10).

(e) A health care practitioner, who provides information regarding health care services on an Internet Web site that is directly controlled or administered by that health care practitioner or his or her office personnel, shall prominently display on that Internet Web site the information required by this section.

(Amended by Stats. 2011, Ch. 381, § 5 (SB 146), eff. January 1, 2012.)

§ 688 Health Care Practitioners; Prescriptions; Electronic Data Transmission

(a) A health care practitioner authorized to issue a prescription pursuant to Section 4040 shall have the capability to issue an electronic data transmission prescription, as defined under Section 4040, on behalf of a patient and to transmit that electronic data transmission prescription to a pharmacy selected by the patient.

(b) (1) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall have the capability to receive an electronic data transmission prescription on behalf of a patient.

(2) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 shall not refuse to dispense or furnish an electronic data transmission prescription solely because the prescription was not submitted via, or is not compatible with, the proprietary software of the pharmacy, pharmacist, or other dispensing practitioner.

(3) A pharmacy, pharmacist, or other practitioner authorized under California law to dispense or furnish a prescription pursuant to Section 4040 may decline to dispense or furnish an electronic data transmission prescription submitted via a software that fails to meet any of the following:

(A) Adheres to the National Council for Prescription Drug Programs SCRIPT standard, as modified from time to time.

(B) Complies with the prescription content requirements set forth in Section 4040.

(C) For a controlled substance prescription, complies with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(D) Complies with the federal Health Insurance Portability and Accountability Act of 1996, the California Confidentiality of Medical Information Act, or the security and confidentiality requirements prescribed to by the pharmacy, pharmacist, or other practitioner authorized pursuant to Section 4040.

(c) For a prescription for a controlled substance, as defined by Section 4021, generation and transmission of the

electronic data transmission prescription shall comply with Parts 1300, 1304, 1306, and 1311 of Title 21 of the Code of Federal Regulations, as amended from time to time.

(d) A prescription prescribed by a health care practitioner shall be issued as an electronic data transmission prescription. This subdivision shall not apply to prescriptions issued pursuant to subdivision (e).

(e) Subdivision (d) shall not apply to any of the following:

(1) The prescription is issued pursuant to Section 11159.2 of the Health and Safety Code.

(2) An electronic data transmission prescription is unavailable due to a temporary technological or electrical failure. For purposes of this paragraph, "temporary technological or electrical failure" means failure of a computer system, application, or device, or the loss of electrical power to that system, application, or device, or any other service interruption affecting the certified electronic data transmission prescription application used to transmit the prescription.

(3) The prescribing health care practitioner is issuing a prescription to be dispensed by a pharmacy located outside California.

(4) (A) The prescription is issued in a hospital emergency department or urgent care clinic and one or more of the following conditions are present:

(i) The patient resides outside California.

(ii) The patient resides outside the geographic area of the hospital.

(iii) The patient is homeless or indigent and does not have a preferred pharmacy.

(iv) The prescription is issued at a time when a patient's regular or preferred pharmacy is likely to be closed.

(B) Under any of the conditions described in subparagraph (A), a prescription shall be electronically issued but does not require electronic transmission and may be provided directly to the patient.

(5) The prescription is issued by a veterinarian.

(6) The prescription is for eyeglasses or contact lenses.

(7) The prescription is issued by a prescribing health care practitioner serving as a volunteer in a free clinic and receives no remuneration for their services.

(8) The prescribing health care practitioner and the dispenser are the same entity.

(9) The prescription is issued by a prescribing health care practitioner under circumstances whereby the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by an electronic data transmission prescription in a timely manner, and the delay would adversely impact the patient's medical condition.

(10) The prescription that is issued includes elements not covered by the latest version of the National Council for Prescription Drug Programs' SCRIPT standard, as amended from time to time.

(11) (A) The prescriber registers with the California State Board of Pharmacy in a manner and format determined by the board, stating that they meet one or more of the following criteria:

(i) Their practice is located in the area of an emergency or disaster declared by a federal, state, or local government.

(ii) They issue 100 or fewer prescriptions per calendar year.

(iii) They are unable to issue electronic data transmission prescriptions due to circumstances beyond their control.

(B) The prescriber shall annually submit the registration required in subparagraph (A) to the California State Board of Pharmacy and maintain documentation of the circumstances qualifying them for exemption under subparagraph (A).

(C) The California State Board of Pharmacy shall post a list of prescribers meeting the requirements of subparagraph (A) on its internet website.

(f) A health care practitioner who issues a prescription for a controlled substance but does not transmit the prescription as an electronic data transmission prescription shall document the reason in the patient's medical record as soon as practicable and within 72 hours of the end of the technological or electrical failure that prevented the electronic data transmission of the prescription.

(g) (1) A pharmacy that receives an electronic data transmission prescription from a prescribing health care practitioner who has issued the prescription but has not dispensed the medication to the patient shall, at the request of the patient or a person authorized to make a request on behalf of the patient, immediately transfer or forward the electronic data transmission prescription to an alternative pharmacy designated by the requester, unless one of the following applies:

(A) The action would result in a violation of any state or federal law.

(B) The action is not supported by the latest version of the National Council for Prescription Drug Programs SCRIPT standard, as amended from time to time.

(2) If a pharmacy is prohibited from transferring or forwarding electronic data transmission prescriptions, as specified in paragraph (1), to a designated alternative pharmacy, and that prohibition is subsequently removed, then that pharmacy shall implement, within one year from the date the prohibition is removed, the necessary provisions to allow for the transferring or forwarding of an electronic data transmission prescription.

(h) If a pharmacy, or its staff, is aware than an attempted transmission of an electronic data transmission prescription failed, is incomplete, or is otherwise not appropriately received, the pharmacy shall immediately notify the prescribing health care practitioner.

(i) A pharmacist who receives a written, oral, or faxed prescription shall not be required to verify that the prescription properly falls under one of the exceptions in subdivision (e). Pharmacists may continue to dispense medications from legally valid written, oral, or fax prescriptions pursuant to this division.

(j) A health care practitioner, pharmacist, or pharmacy who fails to meet the applicable requirements of this section shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board. This section does not create a private right of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(k) This section shall not apply to a health care practitioner, pharmacist, or pharmacy when providing health care services to an inmate, individual on parole, or youth under the jurisdiction of the Department of Corrections and Rehabilitation.

(Amended by Stats. 2022, Ch. 518, Sec. 1. (AB 852) Effective January 1, 2023.)

§ 719 Federal Personnel and Tribal Health Programs

(a) A person who is licensed as a health care practitioner in any other state and is employed by a tribal health program, as defined in Section 1603 of Title 25 of the United States Code, shall be exempt from any licensing requirement described in this division with respect to acts authorized under the person's license where the tribal health program performs the services described in the contract or compact of the tribal health program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. Sec. 450 et seq.).

(b) For purposes of this section, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under the law of any other state.

(Added by Stats. 2012, Ch. 119, § 2 (AB 1896), eff. January 1, 2013. See similar section added by Stats. 2012, Ch. 799)

§ 741 Opioid Medication

(a) Notwithstanding any other law, when prescribing an opioid or benzodiazepine medication to a patient, a prescriber shall do the following:

(1) Offer the patient a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid-induced respiratory depression when one or more of the following conditions are present:

(A) The prescription dosage for the patient is 90 or more morphine milligram equivalents of an opioid medication per day.

(B) An opioid medication is prescribed within a year from the date a prescription for benzodiazepine has been dispensed to the patient.

(C) The patient presents with an increased risk for overdose, including a patient with a history of opioid overdose, a patient with a history of substance opioid use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant.

(2) Consistent with the existing standard of care, provide education to patient on opioid overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid-induced respiratory depression.

(3) Consistent with the existing standard of care, provide education on opioid overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid-induced respiratory depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor's parent or guardian.

(b) A prescriber is not required to provide the education specified in paragraphs (2) or (3) of subdivision (a) if the patient receiving the prescription declines the education or has received the education within the past 24 months.

(c) This section does not apply to a prescriber under any of the following circumstances:

(1) When prescribing to an inmate or a youth under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice within the Department of Corrections and Rehabilitation.

(2) When ordering medications to be administered to a patient while the patient is in either an inpatient or outpatient setting.

(3) When prescribing medications to a patient who is terminally ill, as defined in subdivision (c) of Section 11159.2 of the Health and Safety Code.

(Added by Stats. 2019, Ch. 231, § 2 (AB 714), eff. September 5, 2019.)

§ 800 Central Files of Licensees' Individual Historical Records

(a) The Medical Board of California, the Podiatric Medical Board of California, the Board of Psychology, the Dental Board of California, the Dental Hygiene Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the California State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or the licensee's insurer to pay any amount of damages in excess of three thousand dollars ($3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error, or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licentiate pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

(b) (1) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

(2) If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

(3) Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) (1) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or the licensee's counsel or representative, may inspect and have copies made of the licensee's complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

(2) The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

(3) Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

(4) These disclosures shall effect no change in the confidential status of these records.

(Amended by Stats. 2021, Ch. 630, Sec. 14. (AB 1534) Effective January 1, 2022.)

§ 801 Insurers' Reports of Malpractice Settlements or Arbitration Awards; Insured's Written Consent to Settlement

(a) Except as provided in Section 801.01 and subdivisions (b), (c), (d), and (e) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death

or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(e) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 6 (commencing with Section 2700) shall send a complete report to the Board of Registered Nursing as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(f) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

(g) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

(h) For purposes of this section, "insurer" means the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or his or her counsel, if the licensee does not possess professional liability insurance.

(3) A state or local governmental agency, including, but not limited to, a joint powers authority, that self-insures the licensee. As used in this paragraph, "state governmental agency" includes, but is not limited to, the University of California.

(Amended by Stats. 2017, Ch. 520, § 1 (SB 799), eff. January 1, 2018.)

§ 801.01 Report of Settlement of Arbitration Award

The Legislature finds and declares that the filing of reports with the applicable state agencies required under this section is essential for the protection of the public. It is the intent of the Legislature that the reporting requirements set forth in this section be interpreted broadly in order to expand reporting obligations.

(a) A complete report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board with respect to a licensee of the board as to the following:

(1) A settlement over thirty thousand dollars ($30,000) or arbitration award of any amount or a civil judgment of any amount, whether or not vacated by a settlement after entry of the judgment, that was not reversed on appeal, of a claim or action for damages for death or personal injury caused by the licensee's alleged negligence, error, or omission in practice, or by the licensee's rendering of unauthorized professional services.

(2) A settlement over thirty thousand dollars ($30,000), if the settlement is based on the licensee's alleged negligence, error, or omission in practice, or on the licensee's rendering of unauthorized professional services, and a party to the settlement is a corporation, medical group, partnership, or other corporate entity in which the licensee has an ownership interest or that employs or contracts with the licensee.

(b) The report shall be sent by any of the following:

(1) The insurer providing professional liability insurance to the licensee.

(2) The licensee, or the licensee's counsel.

(3) A state or local governmental agency that self-insures the licensee. For purposes of this section, "state governmental agency" includes, but is not limited to, the University of California.

(c) The entity, person, or licensee obligated to report pursuant to subdivision (b) shall send the complete report if the judgment, settlement agreement, or arbitration award is entered against or paid by the employer of the licensee and not entered against or paid by the licensee. "Employer," as used in this paragraph, means a professional corporation, a group practice, a health care facility or clinic licensed or exempt from licensure under the Health and Safety Code, a licensed health care service plan, a medical care foundation, an educational institution, a professional institution, a professional school or college, a general law corporation, a public entity, or a nonprofit organization that employs, retains, or contracts with a licensee referred to in this section. Nothing in this paragraph shall be construed to authorize the employment of, or contracting with, any licensee in violation of Section 2400.

(d) The report shall be sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board as appropriate, within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto, within 30 days after service of the arbitration award on the parties, or within 30 days after the date of entry of the civil judgment.

(e) The entity, person, or licensee required to report under subdivision (b) shall notify the claimant or the claimant's counsel, if the claimant is represented by counsel, that the report has been sent to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If the claimant or the claimant's counsel has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties or the arbitration award was served on the parties or the date of entry of the civil judgment, the claimant or the claimant's counsel shall make the report to the appropriate board.

(f) Failure to substantially comply with this section is a public offense punishable by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000).

(g) (1) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may develop a prescribed form for the report.

(2) The report shall be deemed complete only if it includes the following information:

(A) The name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not the person received an award under the settlement, arbitration, or judgment.

(B) The name and last known business and residential addresses of every licensee who was alleged to have acted improperly, whether or not that person was a named defendant in the action and whether or not that person was required to pay any damages pursuant to the settlement, arbitration award, or judgment.

(C) The name, address, and principal place of business of every insurer providing professional liability insurance to any person described in subparagraph (B), and the insured's policy number.

(D) The name of the court in which the action or any part of the action was filed, and the date of filing and case number of each action.

(E) A description or summary of the facts of each claim, charge, or allegation, including the date of occurrence and the licensee's role in the care or professional services provided to the patient with respect to those services at issue in the claim or action.

(F) The name and last known business address of each attorney who represented a party in the settlement, arbitration, or civil action, including the name of the client the attorney represented.

(G) The amount of the judgment, the date of its entry, and a copy of the judgment; the amount of the arbitration award, the date of its service on the parties, and a copy of the award document; or the amount of the settlement and the date it was reduced to writing and signed by all parties and a copy of the settlement agreement. If an otherwise reportable settlement is entered into after a reportable judgment or arbitration award is issued, the report shall include both a copy of the settlement agreement and a copy of the judgment or award.

(H) The specialty or subspecialty of the licensee who was the subject of the claim or action.

(I) Any other information the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board may, by regulation, require.

(3) Every professional liability insurer, self-insured governmental agency, or licensee or the licensee's counsel that makes a report under this section and has received a copy of any written or electronic patient medical or hospital records prepared by the treating physician and surgeon, podiatrist, or physician assistant, or the staff of the treating physician and surgeon, podiatrist, or hospital, describing the medical condition, history, care, or treatment of the person whose death or injury is the subject of the report, or a copy of any deposition in the matter that discusses the care, treatment, or medical condition of the person, shall include with the report, copies of the records and depositions, subject to reasonable costs to be paid by the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. If confidentiality is required by court order and, as a result, the reporter is unable to provide the records and depositions, documentation to that effect shall accompany the original report. The applicable board may, upon prior notification of the parties to the action, petition the appropriate court for modification of any protective order to permit disclosure to the board. A professional liability insurer, self-insured governmental agency, or licensee or the licensee's counsel shall maintain the records and depositions referred to in this paragraph for at least one year from the date of filing of the report required by this section.

(h) If the board, within 60 days of its receipt of a report filed under this section, notifies a person named in the report, that person shall maintain for the period of three years from the date of filing of the report any records that person has as to the matter in question and shall make those records available upon request to the board to which the report was sent.

(i) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer.

(j) (1) A state or local governmental agency that self-insures licensees shall, prior to sending a report pursuant to this section, do all of the following with respect to each licensee who will be identified in the report:

(A) Before deciding that a licensee will be identified, provide written notice to the licensee that the agency intends to submit a report in which the licensee may be identified, based on the licensee's role in the care or professional

services provided to the patient that were at issue in the claim or action. This notice shall describe the reasons for notifying the licensee. The agency shall include with this notice a reasonable opportunity for the licensee to review a copy of records to be used by the agency in deciding whether to identify the licensee in the report.

(B) Provide the licensee with a reasonable opportunity to provide a written response to the agency and written materials in support of the licensee's position. If the licensee is identified in the report, the agency shall include this response and materials in the report submitted to a board under this section if requested by the licensee.

(C) At least 10 days prior to the expiration of the 30-day reporting requirement under subdivision (d), provide the licensee with the opportunity to present arguments to the body that will make the final decision or to that body's designee. The body shall review the care or professional services provided to the patient with respect to those services at issue in the claim or action and determine the licensee or licensees to be identified in the report and the amount of the settlement to be apportioned to the licensee.

(2) Nothing in this subdivision shall be construed to modify either the content of a report required under this section or the timeframe for filing that report.

(k) For purposes of this section, "licensee" means a licensee of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board.

(Amended by Stats. 2021, Ch. 649, Sec. 2. (SB 806) Effective January 1, 2022.)

§ 801.1 Report of Settlement or Arbitration Award Where State or Local Government Acts as Self-Insurer in Cases of Negligence, Error, Omission in Practice, or Rendering of Unauthorized Services Resulting in Death or Personal Injury

a) Every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(b) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars ($10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

(Amended by Stats. 2011, Ch. 381, § 7 (SB 146), eff. January 1, 2012.)

§ 802.1 Report of Charge of Felony, or Conviction of Felony or Misdemeanor

(a)(1) A physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant shall report either of the following to the entity that issued his or her license:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or information or of the conviction.

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000).

(Amended by Stats. 2012, Ch. 332, § 3 (SB 1236), eff. January 1, 2013.)

§ 802.5 Coroner's Report

(a) When a coroner receives information that is based on findings that were reached by, or documented and approved by a board-certified or board-eligible pathologist indicating that a death may be the result of a physician and surgeon's, podiatrist's, or physician assistant's gross negligence or incompetence, a report shall be filed with the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or the Physician Assistant Board. The initial report shall include the name of the decedent, date and place of death, attending physicians or podiatrists, and all other relevant information available. The initial report shall be followed, within 90 days, by copies of the coroner's report, autopsy protocol, and all other relevant information.

(b) The report required by this section shall be confidential. No coroner, physician and surgeon, or medical examiner, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her acting in compliance with this section. No board-certified or board-eligible pathologist, nor any authorized agent, shall be liable for damages in any civil action as a result of his or her providing information under subdivision (a).

(Amended by Stats. 2012, Ch. 332, § 4 (SB 1236), eff. January 1, 2013.)

§ 803 Report of Crime or Liability for Death

(a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Sciences or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, doctor of podiatric medicine, or physician assistant, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

(Amended by Stats. 2012, Ch. 332, § 5 (SB 1236), eff. January 1, 2013.)

§ 803.1 Public Disclosure Information

(a) Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information regarding any enforcement actions taken against a licensee, including a former licensee, by the board or by another state or jurisdiction, including all of the following:

(1) Temporary restraining orders issued.

(2) Interim suspension orders issued.

(3) Revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement.

(4) Public letters of reprimand issued.

(5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other law, in addition to the information provided in subdivision (a), the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public all of the following:

(1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the licensee's negligence, error, or omission in practice, or by rendering unauthorized professional services.

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee on or after January 1, 2003, in an amount of thirty thousand dollars ($30,000) or more.

(B) The board shall not disclose the actual dollar amount of a settlement but shall put the number and amount of the settlement in context by doing the following:

(i) Comparing the settlement amount to the experience of other licensees within the same specialty or subspecialty, indicating if it is below average, average, or above average for the most recent 10-year period.

(ii) Reporting the number of years the licensee has been in practice.

(iii) Reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement agreement and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

(3) Current American Board of Medical Specialties certification or board equivalent as certified by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine.

(4) Approved postgraduate training.

(5) Status of the license of a licensee. By January 1, 2004, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall adopt regulations defining the status of a licensee. The board shall employ this definition when disclosing the status of a licensee pursuant to Section 2027.

(6) Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for medical disciplinary cause or reason, unless a court finds, in a final judgment, that the peer review resulting in the disciplinary action was conducted in bad faith and the licensee notifies the board of that finding. In addition, any exculpatory or explanatory statements submitted by the licentiate electronically pursuant to subdivision (f) of Section 805 shall be disclosed. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.

(c) Notwithstanding any other law, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall disclose to an inquiring member of the public information received regarding felony convictions of a licensee.

(d) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may by regulation establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice. The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall include the following statement when disclosing information concerning a settlement:

"Some studies have shown that there is no significant correlation between malpractice history and a licensee's competence. At the same time, the State of California believes that consumers should have access to malpractice

information. In these profiles, the State of California has given you information about both the malpractice settlement history for the licensee's specialty and the licensee's history of settlement payments only if in the last 10 years, the licensee, if in a low-risk specialty, has three or more settlements or the licensee, if in a high-risk specialty, has four or more settlements. The State of California has excluded some class action lawsuits because those cases are commonly related to systems issues such as product liability, rather than questions of individual professional competence and because they are brought on a class basis where the economic incentive for settlement is great. The State of California has placed payment amounts into three statistical categories: below average, average, and above average compared to others in the licensee's specialty. To make the best health care decisions, you should view this information in perspective. You could miss an opportunity for high-quality care by selecting a licensee based solely on malpractice history.

When considering malpractice data, please keep in mind:

Malpractice histories tend to vary by specialty. Some specialties are more likely than others to be the subject of litigation. This report compares licensees only to the members of their specialty, not to all licensees, in order to make an individual doctor's history more meaningful.

This report reflects data only for settlements made on or after January 1, 2003. Moreover, it includes information concerning those settlements for a 10-year period only. Therefore, you should know that a licensee may have made settlements in the 10 years immediately preceding January 1, 2003, that are not included in this report. After January 1, 2013, for licensees practicing less than 10 years, the data covers their total years of practice. You should take into account the effective date of settlement disclosure as well as how long the licensee has been in practice when considering malpractice averages.

The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to settle. Some licensees work primarily with high-risk patients. These licensees may have malpractice settlement histories that are higher than average because they specialize in cases or patients who are at very high risk for problems.

Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the licensee. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

You may wish to discuss information in this report and the general issue of malpractice with the licensee."

(e) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall not use the terms "enforcement," "discipline," or similar language implying a sanction unless the licensee has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers' statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

(g) The Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the Physician Assistant Board shall provide each licensee, including a former licensee under subdivision (a), with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

(h) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group licensees by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its statement of reasons for its regulations, explains why the validity of the grouping would be more valid.

(Amended by Stats. 2019, Ch. 456, § 1 (SB 786), eff. January 1, 2020.)

§ 803.5 Notice to Board of Filing Charging Licensee with Felony

(a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Physician Assistant Board, or other appropriate allied health board, and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

(Amended by Stats. 2012, Ch. 332, § 7 (SB 1236), eff. January 1, 2013.)

§ 803.6 Transmittal of Felony Preliminary Hearing Transcript

(a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the Physician Assistant Board, or other appropriate allied health board, as applicable, where the total length of the transcript is under 800 pages and shall notify the appropriate board of any proceeding where the transcript exceeds that length.

(b) In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the board.

(Amended by Stats. 2012, Ch. 332, §8 (SB 1236), eff. January 1, 2013.)

§ 804 Form and Content of Reports

(a) Any agency to whom reports are to be sent under Section 801, 801.1, 802, or 803, may develop a prescribed form for the making of the reports, usage of which it may, but need not, by regulation, require in all cases.

(b) A report required to be made by Sections 801, 801.1, or 802 shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each plaintiff or claimant recovered anything; (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not that person was a named defendant and whether or not any recovery or judgment was had against that person; (3) the name, address, and principal place of business of every insurer providing professional liability insurance as to any person named in (2), and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) any other information the agency to whom the reports are to be sent may, by regulation, require.

(c) Every person named in the report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of the report any records he or she has as to the matter in question and shall make those available upon request to the agency with which the report was filed.

(Amended by Stats. 2006, Ch. 223, § 14, eff. January 1, 2007.)

§ 805 Peer Review: Reports

(a) As used in this section, the following terms have the following definitions:

(1) (A) "Peer review" means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) "Peer review body" includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, midwifery, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, licensed midwife, or physician assistant. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason or after receiving notice that his or her application for membership or staff privileges is denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons his or her application for staff privileges or membership.

(3) Withdraws or abandons his or her request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension. If the California Board of Podiatric Medicine or a licensing agency of another state revokes or suspends, without a stay, the license of a doctor of podiatric medicine, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(l) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

(Amended by Stats. 2017, Ch. 775, § 11 (SB 798), eff. January 1, 2018.)

§ 805.01 Filing Report after Peer Review Makes Final Decision or Recommendation; Grounds for Disciplinary Action; Notice; Submission of Additional Explanatory or Exculpatory Statements; Confidentiality; Violations

(a) As used in this section, the following terms have the following definitions:

(1) (A) "Peer review" means both of the following:

(i) A process in which a peer review body reviews the basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of licentiates to make recommendations for quality improvement and education, if necessary, in order to do either or both of the following:

(I) Determine whether a licentiate may practice or continue to practice in a health care facility, clinic, or other setting providing medical services, and, if so, to determine the parameters of that practice.

(II) Assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services.

(ii) Any other activities of a peer review body as specified in subparagraph (B).

(B) "Peer review body" includes:

(i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, midwifery, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, doctor of podiatric medicine, clinical psychologist, marriage and family therapist, clinical social worker, professional clinical counselor, dentist, licensed midwife, physician assistant, or nurse practitioner practicing pursuant to Section 2837.103 or 2837.104. "Licentiate" also includes a person authorized to practice medicine pursuant to Section 2113 or 2168.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractual arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of staff privileges, membership, or employment" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, if the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after the effective date on which any of the following occur as a result of an action of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

(c) If a licentiate takes any action listed in paragraph (1), (2), or (3) after receiving notice of a pending investigation

initiated for a medical disciplinary cause or reason or after receiving notice that their application for membership or staff privileges is denied or will be denied for a medical disciplinary cause or reason, the chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic where the licentiate is employed or has staff privileges or membership or where the licentiate applied for staff privileges or membership, or sought the renewal thereof, shall file an 805 report with the relevant agency within 15 days after the licentiate takes the action.

(1) Resigns or takes a leave of absence from membership, staff privileges, or employment.

(2) Withdraws or abandons their application for staff privileges or membership.

(3) Withdraws or abandons their request for renewal of staff privileges or membership.

(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.

(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

(f) (1) A copy of the 805 report, and a notice advising the licentiate of their right to submit additional statements or other information, electronically or otherwise, pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report. The notice shall also advise the licentiate that information submitted electronically will be publicly disclosed to those who request the information.

(2) The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

(3) A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

(4) If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician and surgeon, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension. If the California Board of Podiatric Medicine or a licensing agency of another state revokes or suspends, without a stay, the license of a doctor of podiatric medicine, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension. If the Board of Registered Nursing or a licensing agency of another state revokes or suspends, without a stay, the license of a nurse practitioner, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required by this section shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Dental Board of California, and the Board of Registered Nursing shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained electronically by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars ($100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. If the person who is designated or otherwise required to file an 805 report is a licensed nurse practitioner, the action or proceeding shall be brought by the Board of Registered Nursing. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licentiate. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(l) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars ($50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. If the person who is designated or otherwise required to file an 805 report is a licensed doctor of podiatric medicine, the action or proceeding shall be brought by the California Board of Podiatric Medicine. If the person who is designated or otherwise required to file an 805 report is a licensed nurse practitioner, the action or proceeding shall be brought by the Board of Registered Nursing. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars ($50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of the fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.

(m) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.

(Amended by Stats. 2020, Ch. 265, Sec. 2. (AB 890) Effective January 1, 2021.)

§ 810 Unprofessional Conduct: Insurance Fraud

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with their professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has more than one conviction of any felony arising out of separate prosecutions involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the California State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

(Amended by Stats. 2021, Ch. 630, Sec. 15. (AB 1534) Effective January 1, 2022.)

§ 820 Examination of Licentiate for Mental Illness or Physical Illness Affecting Competency

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

(Amended by Stats. 1989, Ch. 1104, Sec. 1.7.)

§ 821 Effect of Licentiate's Failure to Comply with Order for Examination

The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

(Added by Stats. 1982, Ch. 1183, Sec. 1.)

§ 822 Action by Licensing Agency

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

(Added by Stats. 1982, Ch. 1183, Sec. 1.)

§ 823 Reinstatement of Licentiate

Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.

(c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.

(d) Requiring the licentiate to undergo continuing treatment.

(e) Restricting or limiting the extent, scope or type of practice of the licentiate.

(Added by Stats. 1982, Ch. 1183, Sec. 1.)

§ 824 Options Open to Licensing Agency When Proceeding Against Licentiate

The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

(Added by Stats. 1982, Ch. 1183, Sec. 1.)

§ 825 Licensing Agency

As used in this article with reference to persons holding licenses as physicians and surgeons, "licensing agency" means a panel of the Division of Medical Quality.

(Amended by Stats. 1993, Ch. 1267, Sec. 9. Effective January 1, 1994.)

§ 870 Expedited Licensure Process

(a) The Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board shall expedite the licensure process for an applicant who demonstrates that they intend to provide abortions, as defined in Section 123464 of the Health and Safety Code, within the scope of practice of their license.

(b) An applicant shall demonstrate their intent to provide abortions by providing a letter declaring the applicant's intention to provide abortions and a letter from an employer or health care entity indicating that the applicant has accepted employment or entered into a contract to provide abortions, the applicant's starting date, the location where the applicant will be providing abortions, and that the applicant will be providing abortions within the scope of practice of their license in accordance with Sections 2253, 2725.4, and 3502.4, as applicable.

(c) Nothing in this section shall be construed as changing existing licensure requirements. An applicant applying for expedited licensure under subdivision (a) shall meet all applicable statutory and regulatory licensure requirements.

(Added by Stats. 2022, Ch. 560, Sec. 2. (AB 657) Effective January 1, 2023.)

§ 1206.5 Clinical Laboratory Test or Examination

(a) Notwithstanding subdivision (b) of Section 1206 and except as otherwise provided in Sections 1206.6 and 1241, no person shall perform a clinical laboratory test or examination classified as waived under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, as described in Section 1209, including, but not limited to, documentation by the laboratory director of the adequacy of the qualifications and competency of the personnel, and the test is performed by any of the following persons:

(1) A licensed physician and surgeon holding a M.D. or D.O. degree.

(2) A licensed podiatrist, a licensed dentist, or a licensed naturopathic doctor, if the results of the tests can be lawfully utilized within their practice.

(3) A person licensed under this chapter to engage in clinical laboratory practice or to direct a clinical laboratory.

(4) A person authorized to perform tests pursuant to a certificate issued under Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of the Health and Safety Code.

(5) A licensed physician assistant if authorized by a supervising physician and surgeon in accordance with Section 3502 or 3535.

(6) A person licensed under Chapter 6 (commencing with Section 2700).

(7) A person licensed under Chapter 6.5 (commencing with Section 2840).

(8) A perfusionist if authorized by and performed in compliance with Section 2590.

(9) A respiratory care practitioner if authorized by and performed in compliance with Chapter 8.3 (commencing with Section 3700).

(10) A medical assistant, as defined in Section 2069, if the waived test is performed pursuant to a specific authorization meeting the requirements of Section 2069.

(11) A pharmacist, as defined in Section 4036, if ordering drug therapy-related laboratory tests in compliance with paragraph (2) of subdivision (a) of Section 4052.1 or paragraph (2) of subdivision (a) of Section 4052.2, if performing skin puncture in the course of performing routine patient assessment procedures in compliance with Section 4052.1, or if performing testing as authorized in Section 4052.4.

(12) A naturopathic assistant, as defined in Sections 3613 and 3640.2, if the waived test is performed pursuant to a specific authorization meeting the requirements of Sections 3613 and 3640.2.

(13) A licensed optometrist as authorized under Chapter 7 (commencing with Section 3000).

(14) Other health care personnel providing direct patient care.

(15) Any other person performing nondiagnostic testing pursuant to Section 1244.

(b) Notwithstanding subdivision (b) of Section 1206, no person shall perform clinical laboratory tests or examinations classified as of moderate complexity under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, as described in Section 1209, including, but not limited to, documentation by the laboratory director of the adequacy of the qualifications and competency of the personnel, and the test is performed by any of the following persons:

(1) A licensed physician and surgeon holding a M.D. or D.O. degree.

(2) A licensed podiatrist or a licensed dentist if the results of the tests can be lawfully utilized within their practice.

(3) A person licensed under this chapter to engage in clinical laboratory practice or to direct a clinical laboratory.

(4) A person authorized to perform tests pursuant to a certificate issued under Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of the Health and Safety Code.

(5) A licensed physician assistant if authorized by a supervising physician and surgeon in accordance with Section 3502 or 3535.

(6) A person licensed under Chapter 6 (commencing with Section 2700).

(7) A perfusionist if authorized by and performed in compliance with Section 2590.

(8) A respiratory care practitioner if authorized by and performed in compliance with Chapter 8.3 (commencing with Section 3700).

(9) A person performing nuclear medicine technology if authorized by and performed in compliance with Article 6 (commencing with Section 107150) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code.

(10) Any person if performing blood gas analysis in compliance with Section 1245.

(11) (A) A person certified or licensed as an "Emergency Medical Technician II" or paramedic pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code while providing prehospital medical care, a person licensed as a psychiatric technician under Chapter 10 (commencing with Section 4500) of Division 2, as a vocational nurse pursuant to Chapter 6.5 (commencing with Section 2840), or as a midwife licensed pursuant to Article 24 (commencing with Section 2505) of Chapter 5, or certified by the department pursuant to Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations as a nurse assistant or a home health aide, who provides direct patient care, if the person is performing the test as an adjunct to the provision of direct patient care by the person, is utilizing a point-of-care laboratory testing device at a site for which a laboratory license or registration has been issued, meets the minimum clinical laboratory education, training, and experience requirements set forth in regulations adopted by the department, and has demonstrated to the satisfaction of the laboratory director that the person is competent in the operation of the point-of-care laboratory testing device for each analyte to be reported.

(B) Before being authorized by the laboratory director to perform laboratory tests or examinations, testing personnel identified in subparagraph (A) shall participate in a preceptor program until they are able to perform the clinical laboratory tests or examinations authorized in this section with results that are deemed accurate and skills that are deemed competent by the preceptor. For the purposes of this section, a "preceptor program" means an organized system that meets regulatory requirements in which a preceptor provides and documents personal observation and critical evaluation, including review of accuracy, reliability, and validity, of laboratory testing performed.

(12) Any other person within a physician office laboratory if the test is performed under the supervision of the patient's physician and surgeon or podiatrist who shall be accessible to the laboratory to provide onsite, telephone, or electronic consultation as needed, and shall: (A) ensure that the person is performing test methods as required for accurate and reliable tests; and (B) have personal knowledge of the results of the clinical laboratory testing or examination performed by that person before the test results are reported from the laboratory.

(13) A pharmacist, if ordering drug therapy-related laboratory tests in compliance with paragraph (2) of subdivision (a) of Section 4052.1 or paragraph (2) of subdivision (a) of Section 4052.2.

(c) Notwithstanding subdivision (b) of Section 1206, no person shall perform clinical laboratory tests or examinations classified as of high complexity under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, as described in Section 1209, including, but not limited to, documentation by the laboratory director of the adequacy of the qualifications and competency of the personnel, and the test is performed by any of the following persons:

(1) A licensed physician and surgeon holding a M.D. or D.O. degree.

(2) A licensed podiatrist or a licensed dentist if the results of the tests can be lawfully utilized within their practice.

(3) A person licensed under this chapter to engage in clinical laboratory practice or to direct a clinical laboratory if the test or examination is within a specialty or subspecialty authorized by the person's licensure.

(4) A person authorized to perform tests pursuant to a certificate issued under Article 5 (commencing with Section 101150) of Chapter 2 of Part 3 of Division 101 of the Health and Safety Code if the test or examination is within a specialty or subspecialty authorized by the person's certification.

(5) A licensed physician assistant if authorized by a supervising physician and surgeon in accordance with Section 3502 or 3535.

(6) A perfusionist if authorized by and performed in compliance with Section 2590.

(7) A respiratory care practitioner if authorized by and performed in compliance with Chapter 8.3 (commencing with Section 3700).

(8) A person performing nuclear medicine technology if authorized by and performed in compliance with Article 6 (commencing with Section 107150) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code.

(9) Any person if performing blood gas analysis in compliance with Section 1245.

(10) Any other person within a physician office laboratory if the test is performed under the onsite supervision of the patient's physician and surgeon or podiatrist who shall: (A) ensure that the person is performing test methods as required for accurate and reliable tests; and (B) have personal knowledge of the results of clinical laboratory testing or examination performed by that person before the test results are reported from the laboratory.

(d) Clinical laboratory examinations classified as provider-performed microscopy under CLIA may be personally performed using a brightfield or phase/contrast microscope by one of the following practitioners:

(1) A licensed physician and surgeon using the microscope during the patient's visit on a specimen obtained from their own patient or from a patient of a group medical practice of which the physician is a member or employee.

(2) A nurse practitioner practicing pursuant to Section 2837.103 or 2837.104 using the microscope during the patient's visit on a specimen obtained from their own patient or from a patient of a group nurse practitioner practice of which the nurse practitioner is a member or employee.

(3) A nurse midwife holding a certificate as specified by Section 2746.5, a licensed nurse practitioner as specified in Section 2835.5, or a licensed physician assistant acting under the supervision of a physician pursuant to Section 3502 using the microscope during the patient's visit on a specimen obtained from their own patient or from the patient of a clinic, group medical practice, or other health care provider of which the certified nurse midwife, licensed nurse practitioner, or licensed physician assistant is an employee.

(4) A licensed dentist using the microscope during the patient's visit on a specimen obtained from their own patient or from a patient of a group dental practice of which the dentist is a member or an employee.

(Amended by Stats. 2022, Ch. 413, Sec. 1. (AB 2684) Effective January 1, 2023.)

§ 2021 Directory/Reporting Address Change

(a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish any information as it may deem necessary to enable it to compile the directory.

(b) Each licensee shall report to the board each and every change of address, including an email address, within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the applicant shall also provide the board with a street address. If another address is the licensee's address of record, the licensee may request that the second address not be disclosed to the public.

(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new names.

(d) Each applicant and licensee shall have an electronic mail address and shall report to the board that electronic mail address no later than July 1, 2022. The electronic mail address shall be considered confidential and not subject to public disclosure.

(Amended by Stats. 2021, Ch. 649, Sec. 5. (SB 806) Effective January 1, 2022.)

§ 2023.5 Review of Use of Laser or Intense Light Pulse Devices

(a) The board, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Board and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

(1) The appropriate level of physician supervision needed.

(2) The appropriate level of training to ensure competency.

(3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:

(A) Patient selection.

(B) Patient education, instruction, and informed consent.

(C) Use of topical agents.

(D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) Nothing in this section shall be construed to modify the prohibition against the unlicensed practice of medicine.

(Amended by Stats. 2022, Ch. 511, Sec. 9. (SB 1495) Effective January 1, 2023.)

§ 2052 "Unlawful Practice of Medicine" Defined

(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided by law.

(Amended by Stats. 2011, Ch. 15, § 11 (AB 109), eff. April 4, 2011. Operative October 1, 2011, by § 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, § 68.)

§ 2054 Unlawful Representation as a Physician

(a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law,

or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a), any of the following persons may use the words "doctor" or "physician," the letters or prefix "Dr.," or the initials "M.D.":

(1) A graduate of a medical school approved or recognized by the board while enrolled in a postgraduate training program approved by the board.

(2) A graduate of a medical school who does not have a certificate as a physician and surgeon under this chapter if he or she meets all of the following requirements:

(A) If issued a license to practice medicine in any jurisdiction, has not had that license revoked or suspended by any jurisdiction.

(B) Does not otherwise hold himself or herself out as a physician and surgeon entitled to practice medicine in this state except to the extent authorized by this chapter.

(C) Does not engage in any of the acts prohibited by Section 2060.

(3) A person authorized to practice medicine under Section 2111 or 2113 subject to the limitations set forth in those sections.

(Amended by Stats. 2017, Ch. 775, § 22 (SB 798), eff. January 1, 2018.)

§ 2069 Medical Assistants

(a) (1) Notwithstanding any other law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist. A medical assistant may also perform all these tasks and services upon the specific authorization of a physician assistant, a nurse practitioner, or a certified nurse-midwife.

(2) The supervising physician and surgeon may, at his or her discretion, in consultation with the nurse practitioner, certified nurse-midwife, or physician assistant, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. These written instructions may provide that the supervisory function for the medical assistant for these tasks or supportive services may be delegated to the nurse practitioner, certified nurse-midwife, or physician assistant within the standardized procedures or protocol, and that tasks may be performed when the supervising physician and surgeon is not onsite, if either of the following apply:

(A) The nurse practitioner or certified nurse-midwife is functioning pursuant to standardized procedures, as defined by Section 2725, or protocol. The standardized procedures or protocol, including instructions for specific authorizations, shall be developed and approved by the supervising physician and surgeon and the nurse practitioner or certified nurse-midwife.

(B) The physician assistant is functioning pursuant to regulated services defined in Section 3502, including instructions for specific authorizations, and is approved to do so by the supervising physician and surgeon.

(b) As used in this section and Sections 2070 and 2071, the following definitions apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, for a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a), or for a health care service plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the board. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife

as provided in subdivision (a), authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist, or the physician assistant, the nurse practitioner, or the certified nurse-midwife as provided in subdivision (a), authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by the following practitioners, within the scope of their respective practices, who shall be physically present in the treatment facility during the performance of those procedures:

(A) A licensed physician and surgeon.

(B) A licensed podiatrist.

(C) A physician assistant, nurse practitioner, or certified nurse-midwife as provided in subdivision (a).

(4)(A) "Technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a certified nurse-midwife as provided in subdivision (a).

(B) Notwithstanding any other law, in a facility licensed by the California State Board of Pharmacy under Section 4180 or 4190, other than a facility operated by the state, "technical supportive services" also includes handing to a patient a prepackaged prescription drug, excluding a controlled substance, that is labeled in compliance with Section 4170 and all other applicable state and federal laws and ordered by a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife in accordance with subdivision (a). In every instance, prior to handing the medication to a patient pursuant to this subparagraph, the properly labeled and prepackaged prescription drug shall have the patient's name affixed to the package and a licensed physician and surgeon, a licensed podiatrist, a physician assistant, a nurse practitioner, or a certified nurse-midwife shall verify that it is the correct medication and dosage for that specific patient and shall provide the appropriate patient consultation regarding use of the drug.

(c) Nothing in this section shall be construed as authorizing any of the following:

(1) The licensure of medical assistants.

(2) The administration of local anesthetic agents by a medical assistant.

(3) The board to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(4) A medical assistant to perform any clinical laboratory test or examination for which he or she is not authorized by Chapter 3 (commencing with Section 1200).

(5) A nurse practitioner, certified nurse-midwife, or physician assistant to be a laboratory director of a clinical laboratory, as those terms are defined in paragraph (8) of subdivision (a) of Section 1206 and subdivision (a) of Section 1209.

(d) A nurse practitioner, certified nurse-midwife, or physician assistant shall not authorize a medical assistant to perform any clinical laboratory test or examination for which the medical assistant is not authorized by Chapter 3 (commencing with Section 1200). A violation of this subdivision constitutes unprofessional conduct.

(e) Notwithstanding any other law, a medical assistant shall not be employed for inpatient care in a licensed general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(Amended by Stats. 2014, Ch. 333, § 1 (AB 1841), eff. January 1, 2015.)

§ 2070 Medical Assistants—Venipuncture

Notwithstanding any other provision of law, a medical assistant may perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and under the supervision of a licensed physician and surgeon or a licensed podiatrist, or a physician assistant, a nurse practitioner, or a nurse-midwife as provided

in subdivision (a) of Section 2069, if prior thereto the medical assistant has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Licensing. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the training required. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(Amended by Stats 2001, Ch. 358, § 3, eff. January 1, 2002.)

§ 2077 Delegation of Orthopaedic Tasks to Orthopaedic Physician Assistants

(a) Notwithstanding any other provision of law, a physician and surgeon may delegate various orthopaedic medical tasks to individuals who have completed training as orthopaedic physician assistants and who are working under the supervision and direction of a physician and surgeon. Those assistants who perform only those tasks which may under existing law be so delegated shall not be required to be licensed as physician assistants under Chapter 7.7 (commencing with Section 3500).

(b) As used in this section, "orthopaedic physician assistant" means an individual who meets all of the following requirements:

(1) Successful completion of training as an orthopaedic physician assistant from an approved California orthopaedic physician assistant's program in any year between 1971 and 1974, inclusive. As used in this section, "approved California orthopaedic physician assistant's program" means an orthopaedic physician assistant's course of training that has been accredited by the American Medical Association Council on Medical Education.

(2) Continuous experience as an orthopaedic physician assistant upon completion of the program described in paragraph (1), which may include experience in the United States Armed Services.

(3) Successful fulfillment of the certification requirements of the National Board for Certification of Orthopaedic Physician Assistants.

(c) Nothing in this section shall authorize any individual to hold himself or herself out as a licensed physician assistant in violation of Section 3503.

(Added by Stats. 1996, Ch. 1030, § 1, eff. January 1, 1997.)

§ 2234 "Unprofessional Conduct" Defined

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board no later than 30 calendar days after being notified by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

(h) Any action of the licensee, or another person acting on behalf of the licensee, intended to cause their patient or their patient's authorized representative to rescind consent to release the patient's medical records to the board or the Department of Consumer Affairs, Health Quality Investigation Unit.

(i) Dissuading, intimidating, or tampering with a patient, witness, or any person in an attempt to prevent them from reporting or testifying about a licensee.

(Amended by Stats. 2023, Ch. 294, Sec. 17. (SB 815) Effective January 1, 2024.)

§ 2234.1 Physician and Surgeons: Alternative or Complementary Medicine

(a) A physician and surgeon shall not be subject to discipline pursuant to subdivision (b), (c), or (d) of Section 2234 solely on the basis that the treatment or advice he or she rendered to a patient is alternative or complementary medicine, including the treatment of persistent Lyme Disease, if that treatment or advice meets all of the following requirements:

(1) It is provided after informed consent and a good-faith prior examination of the patient, and medical indication exists for the treatment or advice, or it is provided for health or well-being.

(2) It is provided after the physician and surgeon has given the patient information concerning conventional treatment and describing the education, experience, and credentials of the physician and surgeon related to the alternative or complementary medicine that he or she practices.

(3) In the case of alternative or complementary medicine, it does not cause a delay in, or discourage traditional diagnosis of, a condition of the patient.

(4) It does not cause death or serious bodily injury to the patient.

(b) For purposes of this section, "alternative or complementary medicine," means those health care methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient's medical condition that is not outweighed by the risk of the health care method.

(c) Since the National Institute of Medicine has reported that it can take up to 17 years for a new best practice to reach the average physician and surgeon, it is prudent to give attention to new developments not only in general medical care but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California.

(Amended by Stats. 2005, Ch. 621, § 28.5, eff. January 1, 2006.)

§ 2236 Conviction of a Crime

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon.

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

(Amended by Stats. 1994, Ch. 1206, § 19, eff. January 1, 1995.)

§ 2241 Prescribing to Addicts

(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to a person with substance use disorder under the physician and surgeon's treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to a person with substance use disorder for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person they know or reasonably believe is using or will use the drugs or substances for a nonmedical purpose.

(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under their instruction and supervision, under the following circumstances:

(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

(2) Treatment of persons with substance use disorder in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

(3) Treatment of persons with substance use disorder as provided for by Section 11217.5 of the Health and Safety Code.

(d) (1) For purposes of this section and Section 2241.5, "person with substance use disorder" means a person whose actions are characterized by craving in combination with one or more of the following:

(A) Impaired control over drug use.

(B) Compulsive use.

(C) Continued use despite harm.

(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not a person with substance use disorder within the meaning of this section or Section 2241.5.

(Amended by Stats. 2023, Ch. 21, Sec. 1. (AB 1130) Effective January 1, 2024.)

§ 2241.5 Intractable Pain Treatment Act

(a) A physician and surgeon may prescribe for, or dispense or administer to, a person under their treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of a person with substance use disorder.

(3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of their purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

(Amended by Stats. 2023, Ch. 21, Sec. 2. (AB 1130) Effective January 1, 2024.)

§ 2242 Prescribing Without Prior Examination

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

(Amended by Stats. 2019, Ch. 741, § 1 (AB 1264), eff. October 11, 2019.)

§ 2242.2 Use of Self-Screening Tool to Prescribe, Furnish, or Dispense Hormonal Contraceptives

Notwithstanding any other law, a physician and surgeon, a nurse practitioner acting within the scope of Section 2837.103 or 2837.104, a registered nurse acting in accordance with Section 2725.2, a certified nurse-midwife acting within the scope of Section 2746.51, a nurse practitioner acting within the scope of Section 2836.1, a physician assistant acting within the scope of Section 3502.1, and a pharmacist acting within the scope of Section 4052.3 may use a self-screening tool that will identify patient risk factors for the use of self-administered hormonal contraceptives by a patient, and, after an appropriate prior examination, prescribe, furnish, or dispense, as applicable, self-administered hormonal contraceptives to the patient. Blood pressure, weight, height, and patient health history may be self-reported using the self-screening tool that identifies patient risk factors.

(Amended by Stats. 2022, Ch. 413, Sec. 2. (AB 2684) Effective January 1, 2023.)

§ 2250 Failure to Comply With Requirements for Sterilization

The willful failure to comply with the requirements of Article 6 (commencing with Section 14191) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code and the regulations promulgated there under, relating to informed consent for sterilization procedures, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2252 Violation of Laws Relating to Cancer Treatment

The violation of Chapter 4 (commencing with Section 109250) of Part 4 of Division 104 of the Health and Safety Code, or any violation of an injunction or cease and desist order issued under those provisions, relating to the treatment of cancer, constitutes unprofessional conduct.

(Amended by Stats. 1996, Ch. 1023, § 6, eff. September 29, 1996.)

§ 2253 Laws Relating to Criminal Abortions

(a) Failure to comply with the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) constitutes unprofessional conduct.

(b) (1) Except as provided in paragraph (2), a person is subject to Section 2052 if the person performs an abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon.

(2) A person shall not be subject to Section 2052 if the person performs an abortion by medication or aspiration techniques in the first trimester of pregnancy, and at the time of so doing, has a valid, unrevoked, and unsuspended license or certificate obtained in accordance with the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Osteopathic Act (Article 21 (commencing with Section 2450) of Chapter 5), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)) or the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500)), that authorizes the person to perform the functions necessary for an abortion by medication or aspiration techniques.

(c) In order to perform an abortion by aspiration techniques pursuant to paragraph (2) of subdivision (b), a person shall comply with Section 2725.4 or 3502.4.

(d) The Medical Board of California and the Osteopathic Medical Board of California shall not suspend or revoke the certificate of a physician and surgeon solely for performing an abortion if they performed the abortion in accordance with the provisions of this chapter and the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(e) Notwithstanding any other law, including, but not limited to, Sections 141, 480, 490, 2221, 2305, 2234, and 2236, the Medical Board of California and the Osteopathic Medical Board of California, as applicable, shall not deny an application for licensure as a physician and surgeon, or suspend, revoke, or otherwise impose discipline upon a physician and surgeon licensed in this state under either of the following circumstances:

(1) The physician and surgeon is licensed to practice medicine in another state and was disciplined in that state solely for performing an abortion in that state.

(2) The physician and surgeon is licensed to practice medicine in another state and was convicted in that state for an offense related solely to the performance of an abortion in that state.

(Amended by Stats. 2022, Ch. 565, Sec. 1. (AB 2626) Effective September 27, 2022.)

§ 2254 Violation of Laws Relating to Research on Aborted Products

The violation of Section 123440 of the Health and Safety Code, relating to research on aborted products of human conception, constitutes unprofessional conduct.

(Amended by Stats. 1996, Ch. 1023, § 8, eff. September 26, 1996.)

§ 2255 Violation of Laws Relating to Patient Referrals

The violation of any provision of Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, relating to the unlawful referral of patients to extended care facilities, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2256 Violation of Laws Relating to Patient Rights

Any intentional violation of Sections 5326.2 to 5326.8, inclusive, of the Welfare and Institutions Code, relating to the rights of involuntarily confined inpatients, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2257 Violation of Laws Relating to Informed Consent for Breast Cancer Treatment

The violation of Section 109275 of the Health and Safety Code, relating to informed consent for the treatment of breast cancer, constitutes unprofessional conduct.

(Amended by Stats. 1996, Ch. 1023, § 9, eff. September 29, 1996.)

§ 2258 Violation of Laws Relating to the Use of Laetrile

The violation of Section 1708.5 of the Health and Safety Code, relating to the use of laetrile or amygdalin with respect to cancer therapy, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.9.)

§ 2259 Cosmetic Implant Act of 1992: Silicone Implants

(a) A physician and surgeon shall give each patient a copy of the standardized written summary, as developed pursuant to subdivision (e), describing silicone implants used in cosmetic, plastic, reconstructive, or similar surgery, before the physician and surgeon performs the surgery. A physician and surgeon may substitute, in place of the standardized written summary for silicone implants, written information authorized for use by the federal Food and Drug Administration prepared by the manufacturer based upon the physician package insert. The furnishing of a copy of the standardized written summary or written information shall constitute compliance with the requirements of this section.

(b) Prior to performance of surgery, the physician and surgeon shall note on the patient's chart that he or she has given the patient the standardized written summary or written information required by this section.

(c) The failure of a physician and surgeon to comply with this section constitutes unprofessional conduct. The provision of the standardized written summary or written information shall not alter, diminish, or modify existing duties of physicians and surgeons, including duties relating to informed consent. However, no physician and surgeon shall be liable as a distributor of a standardized written summary or written information alleged to contain erroneous or incomplete information.

(d) The facility where the surgery is performed shall not be responsible for enforcement of, or verification of, compliance with the requirements of this section.

(e) If the State Department of Health Services determines that the federal Food and Drug Administration has not authorized written information on silicone implants intended for the layperson, the state department shall develop a standardized written summary to inform the patient of the risks and possible side effects of silicone implants as used in cosmetic, plastic, reconstructive, or similar surgery. In developing these summaries, the state department shall do all of the following:

(1) Use only language that is simple and readily understood by a layperson.

(2) Include a disclaimer that the state in no way endorses any procedures, nor does the state claim to provide an exhaustive analysis of all the potential benefits or risks associated with any procedure.

(3) Provide only information approved by the federal Food and Drug Administration.

(f) The State Department of Health Services shall update the written summary described in subdivision (e) as determined necessary by the state department to protect the public health and safety.

(g) The Medical Board of California shall publish the standardized written summaries prepared pursuant to subdivision (e), and shall distribute copies of the summaries, upon request, to physicians and surgeons. The Medical Board of California shall make the summaries available for a fee not exceeding, in the aggregate, the actual costs to the State Department of Health Services and the Medical Board of California for developing, updating, publishing, and distributing the summaries. Physicians and surgeons performing surgical procedures described in subdivision (a) shall purchase the summaries from the Medical Board of California for distribution to their patients, as required in this section. Any person or entity may purchase the summaries if he, she, or it desires. The Medical Board of California shall fund the State Department of Health Services for the actual cost of developing and updating the summaries incurred by the State Department of Health Services, through an interagency agreement entered into between the Medical Board of California and the State Department of Health Services for that purpose.

The Medical Board of California and the State Department of Health Services may distribute the written information described in subdivision (a) if a manufacturer of silicone implants provides the board and state department with a sufficient number of copies of this information, as determined by the state department.

(h) Section 2314 shall not apply to this section.

(i) For purposes of this section, "silicone implant" means any implant containing silicone, including implants using a silicone gel or silicone shell. This definition includes implants using a saline solution with a silicone shell.

(j) A physician and surgeon shall not be responsible for complying with this section until the written summaries are published pursuant to subdivision (g).

(Added by Stats. 1992, Ch. 1140, § 1, eff. January 1, 1993.)

§ 2259.5 Cosmetic Implant Act of 1992: Collagen Injections

(a) A physician and surgeon shall give each patient a copy of the standardized written summary, as developed pursuant to subdivision (e), describing collagen injections used in cosmetic, plastic, reconstructive, or similar surgery, before the physician and surgeon performs the surgery. A physician and surgeon may substitute, in place of the standardized written summary for collagen injections, written information authorized for use by the federal Food and Drug Administration prepared by the manufacturer based upon the physician package insert. The furnishing of a copy of the standardized written summary or written information shall constitute compliance with the requirements of this section.

(b) Prior to the performance of surgery, the physician and surgeon shall note on the patient's chart that he or she has given the patient the standardized written summary or written information required by this section.

(c) The failure of a physician and surgeon to comply with this section constitutes unprofessional conduct. The provision of the standardized written summary or written information shall not alter, diminish, or modify existing duties relating to informed consent. However, no physician and surgeon shall be liable as a distributor of a standardized written summary or written information alleged to contain erroneous or incomplete information.

(d) The facility where the surgery is performed shall not be responsible for enforcement of, or verification of, compliance with the requirements of this section.

(e) If the State Department of Health Services determines that the federal Food and Drug Administration has not authorized written information intended for the layperson on collagen injections used in cosmetic, plastic, reconstructive, or similar surgery, the state department shall develop a standardized written summary to inform the patient of the risks and possible side effects of collagen injections as used in cosmetic, plastic, reconstructive, or similar surgery. In developing this summary, the state department shall do all of the following:

(1) Use only language that is simple and readily understood by a layperson.

(2) Include a disclaimer that the state in no way endorses any procedure, nor does the state claim to provide an exhaustive analysis of all the potential benefits or risks associated with any procedure.

(3) Identify the type of animal used to produce the collagen and identify the situations where the federal Food and Drug Administration has given its approval for the procedure.

(4) Provide only information approved by the federal Food and Drug Administration.

(f) The State Department of Health Services shall update the written summary described in subdivision (e) as determined necessary by the state department to protect the public health and safety.

(g) The Medical Board of California shall publish the standardized written summary prepared pursuant to subdivision (e) and shall distribute copies of the summary, upon request, to physicians and surgeons. The Medical Board of California shall make the summary available for a fee not exceeding, in the aggregate, the actual costs to the State Department of Health Services and the Medical Board of California for developing, updating, publishing, and distributing the summary. A physician and surgeon performing surgical procedures described in subdivision (a) shall purchase the summary from the Medical Board of California for distribution to his or her patients, as required in this section. Any person or entity may purchase the summary if he, she, or it desires. The Medical Board of California shall fund the State Department of Health Services for the actual cost of developing and updating the summary incurred by the State Department of Health Services, through an interagency agreement entered into between the Medical Board of California and the State Department of Health Services.

The Medical Board of California and the State Department of Health Services may distribute the written information described in subdivision (a) if a manufacturer of collagen provides the board and state department with a sufficient number of copies of this information, as determined by the state department.

(h) Section 2314 shall not apply to this section.

(i) For purposes of this section, "collagen" includes, but is not limited to, any substance derived from animal protein, or combined with animal protein, that is implanted into the body for purposes of cosmetic, plastic, reconstructive, or similar surgery. However, "collagen" does not include absorbable gelatin medical devices intended for application to bleeding surfaces as a hemostatic or any other medical device used for purposes other than beautifying, promoting attractiveness, or altering the appearance of any part of the human body.

(j) A physician and surgeon shall not be responsible for complying with this section until the written summary is published pursuant to subdivision (g).

(Added by Stats. 1992, Ch. 1140, § 2, eff. January 1, 1993.)

§ 2259.7 Extraction and Postoperative Care Standards

The Medical Board of California shall adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital, as defined in Section 1250 of the Health and Safety Code. In adopting those regulations, the Medical Board of California shall take into account the most current clinical and scientific information available. A violation of those extraction and postoperative care standards constitutes unprofessional conduct.

(Added by Stats. 1999, Ch. 631, § 4, eff. January 1, 2000.)

§ 2260 Informed Consent: Transfer of Sperm or Ova

(a) A physician and surgeon who removes sperm or ova from a patient shall, before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient, obtain the written consent of the patient as provided in subdivision (b).

(b) The consent required by subdivision (a) shall conform to all of the following requirements:

(1) The consent shall be in writing and shall contain the following statement: I (name of donor) do hereby donate (type and number, if applicable, of sperm or ova), to (name of clinic or other donee) for (specify purpose).

(2) The consent shall contain a statement by the donor that specifies the disposition of any unused donated material.

(3) The consent shall be signed by the patient and by the physician and surgeon who removes the sperm or ova.

(4) The physician and surgeon shall retain the original consent in the medical record of the patient and give a copy of the consent to the patient.

(5) The consent shall contain a notification to the patient that the written consent is an important document that should be retained with other vital records.

(6) If the procedure to remove the sperm or ova is performed in a hospital, the physician and surgeon shall provide a copy of the consent to the hospital.

(c) Nothing in this section shall affect the obligation of a physician and surgeon under current law to obtain the informed consent of a patient before performing a medical procedure on the patient that may significantly affect the patient's reproductive health or ability to conceive, or both.

(d) A violation of this section constitutes unprofessional conduct. Section 2314 shall not apply to this section.

(e) A physician and surgeon who fails, for the second time, to obtain any consent required in subdivision (a) or (b) before transferring sperm or ova from a provider of sperm or ova to a recipient, shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the individual whose required consent was not obtained. A separate penalty shall be assessed for each individual from whom the consent was not obtained. The penalties in this section shall be available in addition to any other remedies that may be available under other provisions of law.

(Amended by Stats. 2004, Ch. 183, § 4, eff. January 1, 2005.)

§ 2261 Making False Statements

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2262 Alteration of Medical Records

Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars ($500) for a violation of this section.

(Added by Stats. 1986, Ch. 655, § 4.)

§ 2263 Violation of Professional Confidence

The willful, unauthorized violation of professional confidence constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2264 Aiding Unlicensed Practice of Medicine Prohibited

The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2266 Records

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

(Added by Stats. 1996, Ch. 13, § 3, eff. February 21, 1996.)

§ 2271 False or Misleading Advertising

Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2272 Advertising Without Use of Name

Any advertising of the practice of medicine in which the licensee fails to use his or her own name or approved fictitious name constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2273 Employment of Runners, Cappers, and Steerers

(a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee shall have the licensee's license revoked for a period of 10 years, or shall stipulate to surrender of the license for 10 years, upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to Section 2307.

(Amended by Stats. 2021, Ch. 649, Sec. 20. (SB 806) Effective January 1, 2022.)

§ 2274 Misuse of Titles

(a) The use by any licensee of any certificate, of any letter, letters, word, words, term, or terms either as a prefix, affix, or suffix indicating that he or she is entitled to engage in a medical practice for which he or she is not licensed constitutes unprofessional conduct.

(b) Nothing in this section shall be construed to prohibit a physician and surgeon from using the designations specified in this section if he or she has been issued a retired license under Section 2439.

(Amended by Stats. 2004, Ch. 695, § 10, eff. January 1, 2005.)

§ 2285 Practice Under False or Fictitious Name

The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct. This section shall not apply to the following:

(a) Licensees who are employed by a partnership, a group, or a professional corporation that holds a fictitious name permit.

(b) Licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

(c) An outpatient surgery setting granted a certificate of accreditation from an accreditation agency approved by the medical board.

(d) Any medical school approved by the division or a faculty practice plan connected with the medical school.

(Amended by Stats 2003, Ch. 607, § 6, eff. January 1, 2004.)

§ 2286 Purchase and Sale of Degrees and Certificates

It shall constitute unprofessional conduct for any licensee to violate, to attempt to violate, directly or indirectly, to assist in or abet the violation of, or to conspire to violate any provision or term of Article 18 (commencing with Section 2400), of the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 ofTitle 1 of the Corporations Code), or of any rules and regulations duly adopted under those laws.

(Repealed and added by Stats. 1980, Ch. 1313, § 2.)

§ 2289 Impersonation—Practice of Medicine

The impersonation of another licensed practitioner or permitting or allowing another person to use his or her certificate to engage in the practice of medicine or podiatric medicine constitutes unprofessional conduct.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2400 Corporate Practice of Medicine

Corporations and other artificial legal entities shall have no professional rights, privileges, or powers. However, the Division of Licensing may in its discretion, after such investigation and review of such documentary evidence as it may require, and under regulations adopted by it, grant approval of the employment of licensees on a salary basis by licensed charitable institutions, foundations, or clinics, if no charge for professional services rendered patients is made by any such institution, foundation, or clinic.

(Added by Stats. 1980, Ch. 1313, § 2.)

§ 2415 Fictitious Name Permits

(a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or

in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b)The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

(1)The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

(2)The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(3)The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing.

(c) Each permit shall be accompanied by a notice that shall be displayed in a location readily visible to patients and staff. The notice shall be displayed at each place of business identified in the permit.

(d)This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with that medical school.

(e) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2421) pertaining to renewal of licenses (f)The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(g) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

(h) The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

(i) The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine and shall adopt and administer regulations specifying appropriate podiatric medical name designations.

(Amended by Stats 2017, Ch. 775, § 76 (SB 798), eff. January 1, 2018.)

§ 4022 Dangerous Drug—Dangerous Device Defined

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a ____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

(Amended by Stats 2003, Ch.250, § 1, eff. January 1, 2004.)

§ 4023 "Device" Defined

"Device" means any instrument, apparatus, machine, implant, in vitro reagent, or contrivance, including its components, parts, products, or the byproducts of a device, and accessories that are used or intended for either of the following:

(a) Use in the diagnosis, cure, mitigation, treatment, or prevention of disease in a human or any other animal.

(b) To affect the structure or any function of the body of a human or any other animal. For purposes of this chapter, "device" does not include contact lenses, or any prosthetic or orthopedic device that does not require a prescription.

(Amended by Stats. 1997, Ch. 549, § 16, eff. January 1, 1998.)

§ 4024 "Dispense" Defined

(a) Except as provided in subdivision (b), "dispense" means the furnishing of drugs or devices upon a prescription from a physician, nurse practitioner practicing pursuant to Section 2837.103 or 2837.104, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or upon an order to furnish drugs or transmit a prescription from a certified nurse-midwife, nurse practitioner practicing pursuant to Section 2836.1, physician assistant, naturopathic doctor pursuant to Section 3640.5, or pharmacist acting within the scope of their practice.

(b) "Dispense" also means and refers to the furnishing of drugs or devices directly to a patient by a physician, nurse practitioner practicing pursuant to Section 2837.103 or 2837.104, dentist, optometrist, podiatrist, or veterinarian, or by a certified nurse-midwife, nurse practitioner practicing pursuant to Section 2836.1, naturopathic doctor, or physician assistant acting within the scope of their practice.

(Amended by Stats. 2022, Ch. 413, Sec. 22. (AB 2684) Effective January 1, 2023.)

§ 4040 "Prescription" Defined

(a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, the prescriber's license classification, and the prescriber's federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition or purpose for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

(2) Issued by a physician, dentist, optometrist, doctor of podiatric medicine, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(Amended by Stats. 2021, Ch. 629, Sec. 10. (AB 1533) Effective January 1, 2022.)

§ 4060 Controlled Substance—Prescription Required; Exceptions

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, nurse practitioner practicing pursuant to Section 2837.103 or 2837.104, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner practicing pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner practicing pursuant to Section 2836.1, a physician assistant, or a naturopathic doctor, to order their own stock of dangerous drugs and devices.

(Amended by Stats. 2022, Ch. 413, Sec. 24. (AB 2684) Effective January 1, 2023.)

§ 4061 Distribution of Drug as Sample; Written Request Required

(a) No manufacturer's sales representative shall distribute any dangerous drug or dangerous device as a complimentary sample without the written request of a physician, dentist, podiatrist, optometrist, veterinarian, nurse practitioner practicing pursuant to Section 2837.103 or 2837.104, or naturopathic doctor pursuant to Section 3640.7. However, a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to a protocol described in Section 3502.1, or a naturopathic doctor who functions pursuant to a standardized procedure or protocol described in

Section 3640.5, may sign for the request and receipt of complimentary samples of a dangerous drug or dangerous device that has been identified in the standardized procedure, protocol, or practice agreement. Standardized procedures, protocols, and practice agreements shall include specific approval by a physician. A review process, consistent with the requirements of Section 2725, 3502.1, or 3640.5, of the complimentary samples requested and received by a nurse practitioner practicing pursuant to Section 2836.1, certified nurse-midwife, physician assistant, or naturopathic doctor, shall be defined within the standardized procedure, protocol, or practice agreement.

(b) Each written request shall contain the names and addresses of the supplier and the requester, the name and quantity of the specific dangerous drug desired, the name of the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor, if applicable, receiving the samples pursuant to this section, the date of receipt, and the name and quantity of the dangerous drugs or dangerous devices provided. These records shall be preserved by the supplier with the records required by Section 4059.

(c) Nothing in this section is intended to expand the scope of practice of a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor.

(Amended by Stats. 2022, Ch. 413, Sec. 25. (AB 2684) Effective January 1, 2023.)

§ 4076 Prescription Container—Requirements for Labeling

(a) A pharmacist shall not dispense a prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in a commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within the scope of practice.

(e) A pharmacist shall use professional judgment to provide a patient with directions for use that enhance the patient's understanding of those directions, consistent with the prescriber's instructions.

(f) Notwithstanding subdivision (a) or any other law, a pharmacist may dispense a drug prescribed pursuant to Section 120582 of the Health and Safety Code and label the drug without the name of an individual for whom the drug is intended if the prescription includes the words "expedited partner therapy" or the letters "EPT."

(g) A pharmacist who prescribes, dispenses, furnishes, or otherwise renders EPT, as authorized in subdivision (f), shall not be liable in, and shall not be subject to, a civil, criminal, or administrative action, sanction, or penalty for rendering EPT, if the use of EPT is in compliance with this section, except in cases of intentional misconduct, gross negligence, or wanton or reckless activity.

(h) A pharmacist who provides EPT under this section shall provide written notification that describes the right of an individual who receives EPT to consult with a pharmacist about the medication dispensed and additional information regarding possible drug interactions.

(Amended by Stats. 2021, Ch. 486, Sec. 2. (SB 306) Effective January 1, 2022.)

§ 4170 Prescriber Dispensing

(a) A prescriber shall not dispense drugs or dangerous devices to patients in the prescriber's office or place of practice unless all of the following conditions are met:

(1) The dangerous drugs or dangerous devices are dispensed to the prescriber's own patient, and the drugs or dangerous devices are not furnished by a nurse or physician attendant.

(2) The dangerous drugs or dangerous devices are necessary in the treatment of the condition for which the prescriber is attending the patient.

(3) The prescriber does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of dangerous drugs, dangerous devices, or poisons.

(4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of childproof containers.

(5) The prescriber does not use a dispensing device unless the prescriber personally owns the device and the contents of the device, and personally dispenses the dangerous drugs or dangerous devices to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(6) The prescriber, before dispensing, offers to give a written prescription to the patient that the patient may elect to have filled by the prescriber or by any pharmacy.

(7) The prescriber provides the patient with written disclosure that the patient has a choice between obtaining the prescription from the dispensing prescriber or obtaining the prescription at a pharmacy of the patient's choice.

(8) A certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, a physician assistant who functions pursuant to Section 3502.1, or a naturopathic doctor who functions pursuant to Section 3640.5, may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, a manufacturer as defined in this chapter, or a pharmacist.

(b) The Medical Board of California, the California State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Podiatric Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Veterinary Medical Board, and the Physician Assistant Board shall have authority with the California State Board of Pharmacy to ensure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

(c) "Prescriber," as used in this section, means a person, who holds a physician's and surgeon's certificate, a license to practice optometry, a license to practice naturopathic medicine, a license to practice dentistry, a license to practice veterinary medicine, a certificate to practice podiatry, or a certificate to practice as a nurse practitioner practicing pursuant to Section 2837.103 or 2837.104, and who is duly registered by the Medical Board of California, the Osteopathic Medical Board of California, the California State Board of Optometry, the Bureau of Naturopathic Medicine, the Dental Board of California, the Veterinary Medical Board, the Podiatric Medical Board of California, or the Board of Registered Nursing.

(Amended by Stats. 2022, Ch. 413, Sec. 26. (AB 2684) Effective January 1, 2023.)

§ 4175 Prescriber Dispensing—Complaints

(a) The California State Board of Pharmacy shall promptly forward to the appropriate licensing entity, including the Medical Board of California, the Veterinary Medical Board, the Dental Board of California, the California State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Board of Registered Nursing, the Bureau of Naturopathic Medicine, or the Physician Assistant Board, all complaints received related to dangerous drugs or dangerous devices dispensed by a prescriber, certified nurse-midwife, nurse practitioner, naturopathic doctor, or physician assistant pursuant to Section 4170.

(b) All complaints involving serious bodily injury due to dangerous drugs or dangerous devices dispensed by prescribers, certified nurse-midwives, nurse practitioners, naturopathic doctors, or physician assistants pursuant to Section 4170 shall be handled by the Medical Board of California, the Dental Board of California, the California State Board of Optometry, the California Board of Podiatric Medicine, the Osteopathic Medical Board of California, the Bureau of Naturopathic Medicine, the Board of Registered Nursing, the Veterinary Medical Board, or the Physician Assistant Committee as a case of greatest potential harm to a patient.

(Amended by Stats. 2022, Ch. 511, Sec. 24. (SB 1495) Effective January 1, 2023.)

§ 17500 False or Misleading Advertising

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that imprisonment and fine.

(Amended by Stats. 1998, Ch. 599, § 2.5, eff. January 1, 1999.)

Excerpts from the California Health and Safety Code

§ 442.5 End-of-Life Care

(a) When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall do both of the following:

(1) Notify the patient of his or her right, or, when applicable, the right of another person authorized to make health care decisions for the patient, to comprehensive information and counseling regarding legal end-of-life options. This notification may be provided at the time of diagnosis or at a subsequent visit in which the provider discusses treatment options with the patient or the other authorized person.

(2) Upon the request of the patient or another person authorized to make health care decisions for the patient, provide the patient or other authorized person with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility if the patient's health care provider is not available, may refer the patient or other authorized person to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

(b) If a patient or another person authorized to make health care decisions for the patient, requests information and counseling pursuant to paragraph (2) of subdivision (a), the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) The patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decision maker.

(c) The information described in subdivision (b) may, but is not required to, be in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision (b).

(d) Counseling may include, but is not limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling, as described in subdivision (b), may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

(e) The information and counseling sessions may include a discussion of treatment options in a culturally sensitive manner that the patient and his or her family, or, when applicable, another person authorized to make health care decisions for the patient, can easily understand. If the patient or other authorized person requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient or other authorized person shall be referred to the appropriate entity for that information.

(f) The notification made pursuant to paragraph (1) of subdivision (a) shall not be required if the patient or other person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient has already received the notification.

(g) For purposes of this section, "health care decisions" has the meaning set forth in Section 4617 of the Probate Code.

(h) This section shall not be construed to interfere with the clinical judgment of a health care provider in recommending the course of treatment.

(Amended by Stats. 2015, Ch. 303, § 245 (AB 731), eff. January 1, 2016.)

§ 442.7 End-of-Life Decisions

If a health care provider does not wish to comply with his or her patient's request or, when applicable, the request of another person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient for information on end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to another health care provider that shall provide the requested information.

(b) Provide the patient or other person authorized to make health care decisions for the patient with information on procedures to transfer to another health care provider that shall provide the requested information.

(Amended by Stats. 2014, Ch. 568, § 2 (AB 2139), eff. January 1, 2015.)

§ 1204 Community Clinic

Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or contributions that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status

under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

(Amended by Stats. 2000, Ch. 27, § 1, eff. January 1, 2001.)

§ 1250 Health Facility

As used in this chapter, "health facility" means a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital. The general acute care hospital operated by the State Department of Developmental Services at Agnews Developmental Center may, until June 30, 2007, provide surgery and anesthesia services through a contract or agreement with another acute care hospital. Notwithstanding the requirements of this subdivision, a general acute care hospital operated by the Department of Corrections and Rehabilitation or the Department of Veterans Affairs may provide surgery and anesthesia services during normal weekday working hours, and not provide these services during other hours of the weekday or on weekends or holidays, if the general acute care hospital otherwise meets the requirements of this section.

A "general acute care hospital" includes a "rural general acute care hospital." However, a "rural general acute care hospital" shall not be required by the department to provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for persons with mental health disorders or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) (1) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(2) "Skilled nursing facility" includes a "small house skilled nursing facility (SHSNF)," as defined in Section 1323.5.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled-nursing" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than 18 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one or more of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her

attending physician and surgeon. A "life-threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons, or located in a county of the 16th class pursuant to Section 28020 of the Government Code, may have not more than 25 beds for the purpose of serving persons who are terminally ill.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards who may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not become effective prior to, or, if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(m) "Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)" means a homelike facility with a capacity of four to eight, inclusive, beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have continuous needs for skilled nursing care and have been certified by a physician and surgeon as warranting continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated. ICF/DD-CN facilities shall be subject to licensure under this chapter upon adoption of licensing regulations in accordance with Section 1275.3. A facility providing continuous skilled nursing services to persons with developmental disabilities pursuant to Section 14132.20 or 14495.10 of the Welfare and Institutions Code shall apply for licensure under this subdivision within 90 days after the regulations become effective, and may continue to operate pursuant to those sections until its licensure application is either approved or denied.

(n) "Hospice facility" means a health facility licensed pursuant to this chapter with a capacity of no more than 24 beds that provides hospice services. Hospice services include, but are not limited to, routine care, continuous care, inpatient respite care, and inpatient hospice care as defined in subdivision (d) of Section 1339.40, and is operated by a provider of hospice services that is licensed pursuant to Section 1751 and certified as a hospice pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2015, Ch. 483, Sec. 1 (AB 1211) Effective October 4, 2015.)

§ 1348.8 Requirements for Telephone Medical Advice Services; Forwarding of Data to Department of Consumer Affairs

(a) A health care service plan that provides, operates, or contracts for telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service complies with the requirements of Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Article 7 (commencing with Section 1740) of Chapter 4 of Division 2 of the Business and Professions Code, as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, as a professional clinical counselor pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who is licensed, certified, or registered as required by paragraph (2), in order to help ascertain the condition of an enrollee or subscriber so that the enrollee or subscriber can be referred to licensed staff. However, under no circumstances shall those staff members use the answers to those questions in an attempt to assess, evaluate, advise, or make any decision regarding the condition of an enrollee or subscriber or determine when an enrollee or subscriber needs to be seen by a licensed medical professional.

(5) Ensure that no staff member uses a title or designation when speaking to an enrollee or subscriber that may cause a reasonable person to believe that the staff member is a licensed, certified, or registered professional described in Section 4999.2 of the Business and Professions Code unless the staff member is a licensed, certified, or registered professional.

(6) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(7) Require that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(8) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

(c) For purposes of this section, "telephone medical advice" means a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(Amended by Stats. 2016, Ch. 799, § 42 (SB 1039), eff. January 1, 2017.)

§ 1374.13 Telehealth; Restrictions; Construction

(a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code 13 apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) A health care service plan shall not require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

(d) A health care service plan shall not limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

(e) This section shall also apply to health care service plan contracts and Medi-Cal managed care plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other law, this section does not authorize a health care service plan to require the use of telehealth if the health care provider has determined that it is not appropriate.

(Amended by Stats. 2019, Ch. 867, § 2 (AB 744), eff. January 1, 2020.)

§ 1374.14 Health Care Service Plan

(a) (1) A contract between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(2) This section does not limit the ability of a health care service plan and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health care service plan and the provider shall ensure the rate is consistent with subdivision (h) of Section 1367.

(3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

(b) (1) A health care service plan contract shall specify that the health care service plan shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(2) This section does not alter the obligation of a health care service plan to ensure that enrollees have access to all covered services through an adequate network of contracted providers, as required under Sections 1367, 1367.03, and 1367.035, and the regulations promulgated thereunder.

(3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other law.

(c) A health care service plan may offer a contract containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

(d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

(e) The definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply to this section.

(f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Amended by Stats. 2021, Ch. 439, Sec. 4. (AB 457) Effective January 1, 2022.)

§ 1645 Blood Transfusions; Informed Consent Procedures

(a) Whenever there is a reasonable possibility, as determined by a physician and surgeon or doctor of podiatric medicine, that a blood transfusion may be necessary as a result of a medical or surgical procedure, the physician

and surgeon or doctor of podiatric medicine, by means of a standardized written summary as most recently developed or revised by the State Department of Public Health pursuant to subdivision (e), shall inform, either directly or through a nurse practitioner, certified nurse midwife, or a physician assistant, who is licensed in the state and authorized to order a blood transfusion, the patient of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers. For purposes of this section, the term "autologous blood" includes, but is not limited to, predonation, intraoperative autologous transfusion, plasmapheresis, and hemodilution.

(b) The person who provided the patient with the standardized written summary pursuant to subdivision (a) shall note on the patient's medical record that the standardized written summary was given to the patient.

(c) Subdivisions (a) and (b) shall not apply when medical contraindications or a life-threatening emergency exists.

(d) When there is no life-threatening emergency and there are no medical contraindications, the physician and surgeon or doctor of podiatric medicine shall allow adequate time prior to the procedure for predonation to occur. Notwithstanding this chapter, if a patient waives allowing adequate time prior to the procedure for predonation to occur, a physician and surgeon or doctor of podiatric medicine shall not incur any liability for his or her failure to allow adequate time prior to the procedure for predonation to occur.

(e) The State Department of Public Health shall develop and annually review, and if necessary revise, a standardized written summary which explains the advantages, disadvantages, risks, and descriptions of autologous blood, and directed and nondirected homologous blood from volunteer donors. These blood options shall include, but not be limited to, the blood options described in subdivision (a). The summary shall be written so as to be easily understood by a layperson.

(f) The Medical Board of California shall publish the standardized written summary prepared pursuant to subdivision (e) by the State Department of Public Health and shall distribute copies thereof, upon request, to physicians and surgeons and doctors of podiatric medicine. The Medical Board of California shall make the summary available for a fee not exceeding in the aggregate the actual costs to the State Department of Public Health and the Medical Board of California for developing, updating, publishing and distributing the summary. Physicians and surgeons and doctors of podiatric medicine shall purchase the written summary from the Medical Board of California for, or purchase or otherwise receive the written summary from the Web site of the board or any other entity for, distribution to their patients as specified in subdivision (a). Clinics, health facilities, and blood collection centers may purchase the summary if they desire.

(g) Any entity may reproduce the written summary prepared pursuant to subdivision (e) by the State Department of Public Health and distribute the written summary to physicians and surgeons and doctors of podiatric medicine.

(Amended by Stats. 2007, Ch. 88, § 1, eff. January 1, 2008.)

§ 11055 Schedule II Controlled Substances

(a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium, opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Codeine.

(H) Ethylmorphine.

(I) (i) Hydrocodone.

(ii) Hydrocodone combination products with not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(iii) Oral liquid preparations of dihydrocodeinone containing the above specified amounts that contain, as its nonnarcotic ingredients, two or more antihistamines in combination with each other.

(iv) Hydrocodone combination products with not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(J) Hydromorphone.

(K) Metopon.

(L) Morphine.

(M) Oxycodone.

(N) Oxymorphone.

(O) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, except as specified in Section 11054.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanyl.

(2) Alphaprodine.

(3) Anileridine.

(4) Bezitramide.

(5) Bulk dextropropoxyphene (nondosage forms).

(6) Dihydrocodeine.

(7) Diphenoxylate.

(8) Fentanyl.

(9) Isomethadone.

(10) Levoalphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM. This substance is authorized for the treatment of narcotic addicts under federal law (see Part 291 (commencing with Section 291.501) and Part 1308 (commencing with Section 1308.01) of Title 21 of the Code of Federal Regulations).

(11) Levomethorphan.

(12) Levorphanol.

(13) Metazocine.

(14) Methadone.

(15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

(16) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(17) Pethidine (meperidine).

(18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

(19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.

(20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(21) Phenazocine.

(22) Piminodine.

(23) Racemethorphan.

(24) Racemorphan.

(25) Sufentanyl.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Methamphetamine, its salts, isomers, and salts of its isomers.

(3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.

(4) N-Ethylmethamphetamine (N-ethyl, N-methylamphetamine), its salts, isomers, and salts of its isomers.

(5) Phenmetrazine and its salts.

(6) Methylphenidate.

(7) Khat, which includes all parts of the plant classified botanically as Catha Edulis, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.

(8) Cathinone (also known as alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone).

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidines, including the following:

(A) 1-(1-phenylcyclohexyl) piperidine (PCP).

(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

(C) Any analog of phencyclidine which is added by the Attorney General by regulation pursuant to this paragraph.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(5) Glutethimide.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

(Amended by Stats. 2018, Ch. 589, § 1 (AB 2783), eff. January 1, 2019.)

§ 11056 Schedule III Controlled Substances

(a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or that is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

(c) Depressants. Unless specifically excepted in Section 11059 or elsewhere, or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital.

(B) Secobarbital.

(C) Pentobarbital
or any salt thereof and one or more other active medicinal ingredients that are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital.

(B) Secobarbital.

(C) Pentobarbital
or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Lysergic acid.

(6) Lysergic acid amide.

(7) Methyprylon.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(11) Gamma hydroxybutyric acid, and its salts, isomers, and salts of isomers, contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(4) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids and chorionic gonadotropin. Any material, compound, mixture, or preparation containing chorionic gonadotropin or an anabolic steroid (excluding anabolic steroid products listed in the “Table of Exempt

Anabolic Steroid Products" (Section 1308.34 of Title 21 of the Code of Federal Regulations), as exempt from the federal Controlled Substances Act (Section 801 and following of Title 21 of the United States Code)), including, but not limited to, the following:

(1) Androisoxazole.

(2) Androstenediol.

(3) Bolandiol.

(4) Bolasterone.

(5) Boldenone.

(6) Chloromethandienone.

(7) Clostebol.

(8) Dihydromesterone.

(9) Ethylestrenol.

(10) Fluoxymesterone.

(11) Formyldienolone.

(12) 4-Hydroxy-19-nortestosterone.

(13) Mesterolone.

(14) Methandriol.

(15) Methandrostenolone.

(16) Methenolone.

(17) 17-Methyltestosterone.

(18) Methyltrienolone.

(19) Nandrolone.

(20) Norbolethone.

(21) Norethandrolone.

(22) Normethandrolone.

(23) Oxandrolone.

(24) Oxymesterone.

(25) Oxymetholone.

(26) Quinbolone.

(27) Stanolone.

(28) Stanozolol.

(29) Stenbolone.

(30) Testosterone.

(31) Trenbolone.

(32) Human chorionic gonadotropin (hCG), except when possessed by, sold to, purchased by, transferred to, or administered by a licensed veterinarian, or a licensed veterinarian's designated agent, exclusively for veterinary use.

(g) Ketamine. Any material, compound, mixture, or preparation containing ketamine.

(h) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

(Amended by Stats. 2021, Ch. 618, Sec. 1. (AB 527) Effective January 1, 2022.)

§ 11150 Requirements for Prescriptions

No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within the scope of Section 4052.1, 4052.2, or 4052.6 of the Business and Professions Code, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

(Amended by Stats. 2014, Ch. 319, § 5 (SB 1039), eff. January 1, 2015.)

§ 11158.1 Requirements of Prescriptions: Controlled Substances: Schedule II Drugs

(a) Except when a patient is being treated as set forth in Sections 11159, 11159.2, and 11167.5, and Article 2 (commencing with Section 11215) of Chapter 5, pertaining to the treatment of persons with substance use disorder, except when a patient is currently receiving hospice care, a prescriber shall discuss all of the following information with the patient, or if the patient is a minor, the minor, the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment, before directly dispensing or issuing to a patient the first prescription in a single course of treatment for a controlled substance containing an opioid:

(1) The risks of addiction and overdose associated with the use of opioids.

(2) The increased risk of addiction to an opioid for an individual who is suffering from both mental and substance abuse disorders.

(3) The danger of taking an opioid with a benzodiazepine, alcohol, or another central nervous system depressant.

(4) Any other information required by law.

(b) This section does not apply in any of the following circumstances:

(1) If the patient's treatment includes emergency services and care as defined in Section 1317.1.

(2) If the patient's treatment is associated with, or incidental to, an emergency surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis.

(3) If, in the prescriber's professional judgment, fulfilling the requirements of subdivision (a) would be detrimental to the patient's health or safety, or in violation of the patient's legal rights regarding confidentiality.

(c) Notwithstanding any other law, including Section 11374, failure to comply with this section shall not constitute a criminal offense.

(Amended by Stats. 2024, Ch. 862, Sec. 1. (SB 607) Effective January 1, 2025.)

§ 11162.1 Prescription Forms

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1–24

25–49

50–74

75–100

101–150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify themselves as the prescriber by checking the box by the prescriber's name.

(15) A uniquely serialized number, in a manner prescribed by the Department of Justice in accordance with Section 11162.2.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3).

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) Except as provided in subparagraph (B), the designated prescriber shall maintain a record of the prescribers to whom the controlled substance prescription forms are issued, that shall include the name, category of licensure, license number, federal controlled substance registration number, and quantity of controlled substance prescription forms issued to each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a computerized prescription generation system may contain the prescriber's name, category of professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) Within the next working day following delivery, a security printer shall submit via web-based application, as specified by the Department of Justice, all of the following information for all prescription forms delivered:

(1) Serial numbers of all prescription forms delivered.

(2) All prescriber names and Drug Enforcement Administration Controlled Substance Registration Certificate numbers displayed on the prescription forms.

(3) The delivery shipment recipient names.

(4) The date of delivery.

(Amended by Stats. 2019, Ch. 4, § 1 (AB 149), eff. March 11, 2019.)

§ 11164 Requirements for Prescriptions; Oral or Electronic Prescription; Written Records

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) (1) Notwithstanding any other law, a prescription written on a prescription form that was otherwise valid prior to January 1, 2019, but that does not comply with paragraph (15) of subdivision (a) of Section 11162.1, or a valid controlled substance prescription form approved by the Department of Justice as of January 1, 2019, is a valid prescription that may be filled, compounded, or dispensed until January 1, 2021.

(2) If the Department of Justice determines that there is an inadequate availability of compliant prescription forms to meet demand on or before the date described in paragraph (1), the department may extend the period during which prescriptions written on noncompliant prescription forms remain valid for a period no longer than an additional six months.

(Amended by Stats. 2019, Ch. 4, § 3 (AB 149), eff. March 11, 2019.)

§ 11164.1 When Prescription for Controlled Substance Issued by Prescriber in Another State for Delivery to Patient in Another State May Be Dispensed by California Pharmacy; Report to Department of Justice; Prescriptions for Schedule III, IV, or V Controlled Substances from Out-of-State Prescribers

(a) (1) Notwithstanding any other law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy, if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.

(2) A prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.

(b) A pharmacy may dispense a prescription for a Schedule III, Schedule IV, or Schedule V controlled substance from an out-of-state prescriber pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

(c) This section shall become operative on January 1, 2021.

(Repealed (in § 3) and added by Stats. 2019, Ch. 677, § 4 (AB 528), eff. January 1, 2020. Section operative January 1, 2021, by its own provisions.)

§ 11164.5 Electronic Prescriptions

(a) Notwithstanding Section 11164, if only recorded and stored electronically, on magnetic media, or in any other computerized form, the pharmacy's or hospital's computer system shall not permit the received information or the controlled substance dispensing information required by this section to be changed, obliterated, destroyed, or disposed of, for the record maintenance period required by law, once the information has been received by the pharmacy or the hospital and once the controlled substance has been dispensed, respectively. Once the controlled substance has been dispensed, if the previously created record is determined to be incorrect, a correcting addition may be made only by or with the approval of a pharmacist. After a pharmacist enters the change or enters his or her approval of the change into the computer, the resulting record shall include the correcting addition and the date it was made to the record, the identity of the person or pharmacist making the correction, and the identity of the pharmacist approving the correction.

(b) Nothing in this section shall be construed to exempt any pharmacy or hospital dispensing Schedule II controlled substances pursuant to electronic transmission prescriptions from existing reporting requirements.

(Amended by Stats. 2016, Ch. 484, § 55 (SB 1193), eff. January 1, 2017.)

§ 11165 CURES Project for Electronic Monitoring of Prescription Drugs; Funding as Contingency; Confidentiality Provisions; Information to be Provided to Department of Justice

(a) To assist health care practitioners in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, Schedule IV, and Schedule V controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds in the CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III, Schedule IV, and Schedule V controlled substances by all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled substances.

(b) The department may seek and use grant funds to pay the costs incurred by the operation and maintenance of CURES. The department shall annually report to the Legislature and make available to the public the amount and source of funds it receives for support of CURES.

(c) (1) The operation of CURES shall comply with all applicable federal and state privacy and security laws and regulations.

(2) (A) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the department, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the department, for educational, peer review, statistical, or research purposes, if patient information, including information that may identify the patient, is not compromised. The University of California shall be provided access to identifiable data for research purposes if the requirements of subdivision (t) of Section 1798.24 of the Civil Code are satisfied. Further, data disclosed to an individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to a third party, unless authorized by, or pursuant to, state and federal privacy and security laws and regulations. The department shall establish policies, procedures, and regulations regarding the use, access, evaluation, management, implementation, operation, storage, disclosure, and security of the information within CURES, consistent with this subdivision.

(B) Notwithstanding subparagraph (A), a regulatory board whose licensees do not prescribe, order, administer, furnish, or dispense controlled substances shall not be provided data obtained from CURES.

(3) The department shall, no later than January 1, 2021, adopt regulations regarding the access and use of the information within CURES. The department shall consult with all stakeholders identified by the department during the rulemaking process. The regulations shall, at a minimum, address all of the following in a manner consistent with this chapter:

(A) The process for approving, denying, and disapproving individuals or entities seeking access to information in CURES.

(B) The purposes for which a health care practitioner may access information in CURES.

(C) The conditions under which a warrant, subpoena, or court order is required for a law enforcement agency to obtain information from CURES as part of a criminal investigation.

(D) The process by which information in CURES may be provided for educational, peer review, statistical, or research purposes.

(4) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data are provided and the health care practitioner keeps a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.

(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of a prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) The International Statistical Classification of Diseases (ICD) Code contained in the most current ICD revision, or any revision deemed sufficient by the State Board of Pharmacy, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Prescribing date of the prescription.

(10) Date of dispensing of the prescription.

(11) The serial number for the corresponding prescription form, if applicable.

(e) The department may invite stakeholders to assist, advise, and make recommendations on the establishment of rules and regulations necessary to ensure the proper administration and enforcement of the CURES database. A prescriber or dispenser invitee shall be licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, in active practice in California, and a regular user of CURES.

(f) The department shall, prior to upgrading CURES, consult with prescribers licensed by one of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, one or more of the boards or committees identified in subdivision (d) of Section 208 of the Business and Professions Code, and any other stakeholder identified by the department, for the purpose of identifying desirable capabilities and upgrades to the CURES Prescription Drug Monitoring Program (PDMP).

(g) The department may establish a process to educate authorized subscribers of the CURES PDMP on how to access and use the CURES PDMP.

(h) (1) The department may enter into an agreement with an entity operating an interstate data sharing hub, or an agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information.

(2) Data obtained from CURES may be provided to authorized users of another state's prescription drug monitoring program, as determined by the department pursuant to subdivision (c), if the entity operating the interstate data sharing hub, and the prescription drug monitoring program of that state, as applicable, have entered into an agreement with the department for interstate data sharing of prescription drug monitoring program information.

(3) An agreement entered into by the department for purposes of interstate data sharing of prescription drug monitoring program information shall ensure that all access to data obtained from CURES and the handling of data contained within CURES comply with California law, including regulations, and meet the same patient privacy, audit, and data security standards employed and required for direct access to CURES.

(4) For purposes of interstate data sharing of CURES information pursuant to this subdivision, an authorized user of another state's prescription drug monitoring program shall not be required to register with CURES, if the authorized user is registered and in good standing with that state's prescription drug monitoring program.

(5) The department shall not enter into an agreement pursuant to this subdivision until the department has issued final regulations regarding the access and use of the information within CURES as required by paragraph (3) of subdivision (c).

(i) Notwithstanding subdivision (d), a veterinarian shall report the information required by that subdivision to the department as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed.

(j) If the dispensing pharmacy, clinic, or other dispenser experiences a temporary technological or electrical failure, it shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within its control. The deadline for transmitting prescription information to the department or contracted prescription data processing vendor pursuant to subdivision (d) shall be extended until the failure is corrected. If the dispensing pharmacy, clinic, or other dispenser experiences technological limitations that are not reasonably within its control, or is impacted by a natural or manmade disaster, the deadline for transmitting prescription information to the department or contracted prescription data processing vendor shall be extended until normal operations have resumed.

(Amended by Stats. 2021, Ch. 618, Sec. 5. (AB 527) Effective January 1, 2022.)

§ 11165.1 Requirements of Prescribers

(a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, Schedule IV, or Schedule V controlled substances pursuant to Section 11150 shall, upon receipt of a federal Drug Enforcement Administration (DEA) registration, submit an application developed by the department to obtain approval to electronically access information regarding the controlled substance history of a patient that is maintained by the department. Upon approval, the department shall release to the practitioner or their delegate the electronic history of controlled substances dispensed to an individual under the practitioner's care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP).

(ii) A pharmacist shall, upon licensure, submit an application developed by the department to obtain approval to electronically access information regarding the controlled substance history of a patient that is maintained by the department. Upon approval, the department shall release to the pharmacist or their delegate the electronic history of controlled substances dispensed to an individual under the pharmacist's care based on data contained in the CURES PDMP.

(iii) A licensed physician and surgeon who does not hold a DEA registration may submit an application developed by the department to obtain approval to electronically access information regarding the controlled substance history of the patient that is maintained by the department. Upon approval, the department shall release to the physician and surgeon or their delegate the electronic history of controlled substances dispensed to a patient under their care based on data contained in the CURES PDMP.

(B) The department may deny an application or suspend a subscriber, for reasons that include, but are not limited to, the following:

(i) Materially falsifying an application to access information contained in the CURES database.

(ii) Failing to maintain effective controls for access to the patient activity report.

(iii) Having their federal DEA registration suspended or revoked.

(iv) Violating a law governing controlled substances or another law for which the possession or use of a controlled substance is an element of the crime.

(v) Accessing information for a reason other than to diagnose or treat a patient, or to document compliance with the law.

(C) An authorized subscriber shall notify the department within 30 days of a change to the subscriber account.

(D) An approved health care practitioner, pharmacist, or a person acting on behalf of a health care practitioner

or pharmacist pursuant to subdivision (b) of Section 209 of the Business and Professions Code may use the department's online portal or a health information technology system that meets the criteria required in subparagraph (E) to access information in the CURES database pursuant to this section. A subscriber who uses a health information technology system that meets the criteria required in subparagraph (E) to access the CURES database may submit automated queries to the CURES database that are triggered by predetermined criteria.

(E) An approved health care practitioner or pharmacist may submit queries to the CURES database through a health information technology system if the entity that operates the health information technology system certifies all of the following:

(i) The entity will not use or disclose data received from the CURES database for a purpose other than delivering the data to an approved health care practitioner or pharmacist or performing data processing activities that may be necessary to enable the delivery unless authorized by, and pursuant to, state and federal privacy and security laws and regulations.

(ii) The health information technology system will authenticate the identity of an authorized health care practitioner or pharmacist initiating queries to the CURES database and, at the time of the query to the CURES database, the health information technology system submits the following data regarding the query to CURES:

(I) The date of the query.

(II) The time of the query.

(III) The first and last name of the patient queried.

(IV) The date of birth of the patient queried.

(V) The identification of the CURES user for whom the system is making the query.

(iii) The health information technology system meets applicable patient privacy and information security requirements of state and federal law.

(iv) The entity has entered into a memorandum of understanding with the department that solely addresses the technical specifications of the health information technology system to ensure the security of the data in the CURES database and the secure transfer of data from the CURES database. The technical specifications shall be universal for all health information technology systems that establish a method of system integration to retrieve information from the CURES database. The memorandum of understanding shall not govern, or in any way impact or restrict, the use of data received from the CURES database or impose any additional burdens on covered entities in compliance with the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal Regulations.

(F) No later than October 1, 2018, the department shall develop a programming interface or other method of system integration to allow health information technology systems that meet the requirements in subparagraph (E) to retrieve information in the CURES database on behalf of an authorized health care practitioner or pharmacist.

(G) The department shall not access patient-identifiable information in an entity's health information technology system.

(H) An entity that operates a health information technology system that is requesting to establish an integration with the CURES database shall pay a reasonable fee to cover the cost of establishing and maintaining integration with the CURES database.

(I) The department may prohibit integration or terminate a health information technology system's ability to retrieve information in the CURES database if the health information technology system fails to meet the requirements of subparagraph (E), or the entity operating the health information technology system does not fulfill its obligation under subparagraph (H).

(2) A health care practitioner authorized to prescribe, order, administer, furnish, or dispense Schedule II, Schedule III, Schedule IV, or Schedule V controlled substances pursuant to Section 11150 or a pharmacist shall be deemed to have complied with paragraph (1) if the licensed health care practitioner or pharmacist has been approved to access the CURES database through the process developed pursuant to subdivision (a) of Section 209 of the Business and Professions Code.

(b) A request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the department.

(c) In order to prevent the inappropriate, improper, or illegal use of Schedule II, Schedule III, Schedule IV, or Schedule V controlled substances, the department may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(d) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the department pursuant to this section is medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(e) Information concerning a patient's controlled substance history provided to a practitioner or pharmacist pursuant to this section shall include prescriptions for controlled substances listed in Sections 1308.12, 1308.13, 1308.14, and 1308.15 of Title 21 of the Code of Federal Regulations.

(f) A health care practitioner, pharmacist, or a person acting on behalf of a health care practitioner or pharmacist, when acting with reasonable care and in good faith, is not subject to civil or administrative liability arising from false, incomplete, inaccurate, or misattributed information submitted to, reported by, or relied upon in the CURES database or for a resulting failure of the CURES database to accurately or timely report that information.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Automated basis" means using predefined criteria to trigger an automated query to the CURES database, which can be attributed to a specific health care practitioner or pharmacist.

(2) "Department" means the Department of Justice.

(3) "Entity" means an organization that operates, or provides or makes available, a health information technology system to a health care practitioner or pharmacist.

(4) "Health information technology system" means an information processing application using hardware and software for the storage, retrieval, sharing of or use of patient data for communication, decisionmaking, coordination of care, or the quality, safety, or efficiency of the practice of medicine or delivery of health care services, including, but not limited to, electronic medical record applications, health information exchange systems, or other interoperable clinical or health care information system.

(h) This section shall become operative on July 1, 2021, or upon the date the department promulgates regulations to implement this section and posts those regulations on its internet website, whichever date is earlier.

(Repealed (in § 7) and added by Stats. 2019, Ch. 677, § 8 (AB 528), eff. January 1, 2020. Conditionally operative on or before July 1, 2021, by its own provisions.)

§ 11165.4 Duty to Consult CURES Database; Liability for Failure to Consult

(a) (1) (A) (i) A health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the patient activity report or information from the patient activity report obtained from the CURES database to review a patient's controlled substance history for the past 12 months before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every six months thereafter if the prescriber renews the prescription and the substance remains part of the treatment of the patient.

(ii) If a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance is not required, pursuant to an exemption described in subdivision (c), to consult the patient activity report from the CURES database the first time the health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient, the health care practitioner shall consult the patient activity report from the CURES database to review the patient's controlled substance history before subsequently prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient and at least once every six months thereafter if the prescriber renews the prescription and the substance remains part of the treatment of the patient.

(iii) A health care practitioner who did not directly access the CURES database to perform the required review of the controlled substance use report shall document in the patient's medical record that they reviewed the CURES database generated report within 24 hours of the controlled substance prescription that was provided to them by another authorized user of the CURES database.

(B) For purposes of this paragraph, "first time" means the initial occurrence in which a health care practitioner, in their role as a health care practitioner, intends to prescribe, order, administer, or furnish a Schedule II, Schedule III, or Schedule IV controlled substance to a patient and has not previously prescribed a controlled substance to the patient.

(2) A health care practitioner shall review a patient's controlled substance history that has been obtained from the CURES database no earlier than 24 hours, or the previous business day, before the health care practitioner prescribes, orders, administers, or furnishes a Schedule II, Schedule III, or Schedule IV controlled substance to the patient.

(b) The duty to consult the CURES database, as described in subdivision (a), does not apply to veterinarians or pharmacists.

(c) The duty to consult the CURES database, as described in subdivision (a), does not apply to a health care practitioner in any of the following circumstances:

(1) If a health care practitioner prescribes, orders, or furnishes a controlled substance to be administered to a patient in any of the following facilities or during a transfer between any of the following facilities, or for use while on facility premises:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) Another medical facility, including, but not limited to, an office of a health care practitioner and an imaging center.

(F) A correctional clinic, as described in Section 4187 of the Business and Professions Code, or a correctional pharmacy, as described in Section 4021.5 of the Business and Professions Code.

(2) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance in the emergency department of a general acute care hospital and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use.

(3) If a health care practitioner prescribes, orders, administers, or furnishes buprenorphine or other controlled substance containing buprenorphine in the emergency department of a general acute care hospital.

(4) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient as part of the patient's treatment for a surgical, radiotherapeutic, therapeutic, or diagnostic procedure and the quantity of the controlled substance does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use, in any of the following facilities:

(A) A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(B) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(C) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(D) A county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of Division 2.

(E) A place of practice, as defined in Section 1658 of the Business and Professions Code.

(F) Another medical facility where surgical procedures are permitted to take place, including, but not limited to, the office of a health care practitioner.

(5) If a health care practitioner prescribes, orders, administers, or furnishes a controlled substance to a patient who is terminally ill, as defined in subdivision (c) of Section 11159.2.

(6) (A) If all of the following circumstances are satisfied:

(i) It is not reasonably possible for a health care practitioner to access the information in the CURES database in a timely manner

(ii) Another health care practitioner or designee authorized to access the CURES database is not reasonably available.

(iii) The quantity of controlled substance prescribed, ordered, administered, or furnished does not exceed a nonrefillable seven-day supply of the controlled substance to be used in accordance with the directions for use and no refill of the controlled substance is allowed.

(B) A health care practitioner who does not consult the CURES database under subparagraph (A) shall document the reason they did not consult the database in the patient's medical record.

(7) If the CURES database is not operational, as determined by the department, or cannot be accessed by a health care practitioner because of a temporary technological or electrical failure. A health care practitioner shall, without undue delay, seek to correct the cause of the temporary technological or electrical failure that is reasonably within the health care practitioner's control.

(8) If the CURES database cannot be accessed because of technological limitations that are not reasonably within the control of a health care practitioner.

(9) If consultation of the CURES database would, as determined by the health care practitioner, result in a patient's inability to obtain a prescription in a timely manner and thereby adversely impact the patient's medical condition, provided that the quantity of the controlled substance does not exceed a nonrefillable seven-day supply if the controlled substance were used in accordance with the directions for use.

(d) (1) A health care practitioner who fails to consult the CURES database, as described in subdivision (a), shall be referred to the appropriate state professional licensing board solely for administrative sanctions, as deemed appropriate by that board.

(2) This section does not create a private cause of action against a health care practitioner. This section does not limit a health care practitioner's liability for the negligent failure to diagnose or treat a patient.

(e) All applicable state and federal privacy laws govern the duties required by this section.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(g) This section shall become operative on July 1, 2021, or upon the date the department promulgates regulations to implement this section and posts those regulations on its internet website, whichever date is earlier.

(Amended by Stats. 2023, Ch. 144, Sec. 1. (AB 1731) Effective January 1, 2024.)

§ 11166 When Filling Prescriptions for Controlled Substance is Prohibited

No person shall fill a prescription for a controlled substance after six months has elapsed from the date written on the prescription by the prescriber. No person shall knowingly fill a mutilated or forged or altered prescription for a controlled substance except for the addition of the address of the person for whom the controlled substance is prescribed as provided by paragraph (3) of subdivision (b) of Section 11164.

(Amended by Stats. 2003, Ch. 406, § 19, eff. January 1, 2004.)

§ 11190 Duty to Keep Records; Controlled Substances

(a) Every practitioner, other than a pharmacist, who prescribes or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(1) The name and address of the patient.

(2) The date.

(3) The character, including the name and strength, and quantity of controlled substances involved.

(b) The prescriber's record shall show the pathology and purpose for which the controlled substance was administered or prescribed.

(c) (1) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance that is dispensed by a prescriber pursuant to Section 4170 of the Business and Professions Code, the prescriber shall record and maintain the following information:

(A) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the patient.

(B) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(C) NDC (National Drug Code) number of the controlled substance dispensed.

(D) Quantity of the controlled substance dispensed.

(E) ICD-9 (diagnosis code), if available.

(F) Number of refills ordered.

(G) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(H) Date of origin of the prescription.

(2) (A) Each prescriber that dispenses controlled substances shall provide the Department of Justice the information required by this subdivision on a weekly basis in a format set by the Department of Justice pursuant to regulation.

(B) The reporting requirement in this section shall not apply to the direct administration of a controlled substance to the body of an ultimate user.

(d) This section shall become operative on January 1, 2005.

(e) The reporting requirement in this section for Schedule IV controlled substances shall not apply to any of the following:

(1) The dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less.

(2) The administration or dispensing of a controlled substance in accordance with any other exclusion identified by the United States Health and Human Service Secretary for the National All Schedules Prescription Electronic Reporting Act of 2005.

(f) Notwithstanding paragraph (2) of subdivision (c), the reporting requirement of the information required by this section for a Schedule II or Schedule III controlled substance, in a format set by the Department of Justice pursuant to regulation, shall be on a monthly basis for all of the following:

(1) The dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less.

(2) The administration or dispensing of a controlled substance in accordance with any other exclusion identified by the United States Health and Human Service Secretary for the National All Schedules Prescription Electronic Reporting Act of 2005.

(Amended by Stats. 2006, Ch. 286, § 5, eff. January 1, 2007.)

§ 11191 Records Retention

The record shall be preserved for three years. Every person who violates any provision of this section is guilty of a misdemeanor.

(Amended by Stats. 1976, Ch. 896.)

§ 11215 Controlled Substances—Addict Treatment

(a) Except as provided in subdivision (b), any narcotic controlled substance employed in treating an addict for addiction shall be administered by:

(1) A physician and surgeon.

(2) A registered nurse acting under the instruction of a physician and surgeon.

(3) A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code acting under the patient-specific authority of his or her physician and surgeon supervisor approved pursuant to Section 3515 of the Business and Professions Code.

(b) When acting under the direction of a physician and surgeon, the following persons may administer a narcotic controlled substance orally in the treatment of an addict for addiction to a controlled substance:

(1) A psychiatric technician licensed pursuant to Chapter 10 (commencing with Section 4500) of Division 2 of the Business and Professions Code.

(2) A vocational nurse licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code.

(3) A pharmacist licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(c) Except as permitted in this section, no person shall order, permit, or direct any other person to administer a narcotic controlled substance to a person being treated for addiction to a controlled substance.

(Amended by Stats. 1995, Ch. 455, § 6, eff. September 5, 1995.)

§ 11362.5 Compassionate Use Act of 1996

(a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

(Added November 5, 1996, by initiative Proposition 215, § 1.)

§ 11362.7 Medical Marijuana Program Definitions

For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine, podiatry, or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Anorexia.

(3) Arthritis.

(4) Cachexia.

(5) Cancer.

(6) Chronic pain.

(7) Glaucoma.

(8) Migraine.

(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

(10) Seizures, including, but not limited to, seizures associated with epilepsy.

(11) Severe nausea.

(12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

(Amended by Stats. 2017, Ch. 775, § 112 (SB 798), eff. January 1, 2018.)

§ 102795 Duty of Registering Death: Death Certificate

The medical and health section data and the time of death shall be completed and attested to by the physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, by the physician and surgeon last in attendance or by a licensed physician assistant under the supervision of the physician and surgeon last in attendance if the physician and surgeon or licensed physician assistant is legally authorized to certify and attest to these facts, and if the physician assistant has visited the patient within 72 hours of the patient's death. In the event the licensed physician assistant certifies the medical and health section data and the time of death, then the physician assistant shall also provide on the document the name of the last attending physician and surgeon and provide the coroner with a copy of the certificate of death. However, the medical health section data and the time of death shall be completed and attested to by the coroner in those cases in which he or she is required to complete the medical and health section data and certify and attest to these facts.

(Added by Stats. 1995, Ch. 415, § 4, eff. January 1, 1996.)

§ 102800 Duty of Registering Death: Death Certificate Time Limits

The medical and health section data and the physician's or coroner's certification shall be completed by the attending physician within 15 hours after the death, or by the coroner within three days after examination of the body.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician.

(Added by Stats. 1995, Ch. 415, § 4, eff. January 1, 1996.)

§ 111548 Right to Try Act

This article shall be known and may be cited as the Right to Try Act.

(Added by Stats. 2016, Ch. 684, § 1 (AB 1668), eff. January 1, 2017.)

§ 111548.1 Right to Try Act Definitions

For purposes of this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Consulting physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act who performs all of the following:

(1) Examines the qualified individual and his or her relevant medical records.

(2) Confirms, in writing, the primary physician's diagnosis and prognosis.

(3) Verifies, in the opinion of the consulting physician, that the eligible patient is competent, acting voluntarily, and has made an informed decision.

(b) "Eligible patient" means a person who meets all of the following conditions:

(1) Has an immediately life-threatening disease or condition.

(2) Has considered all other treatment options currently approved by the United States Food and Drug Administration.

(3) Has not been accepted to participate in the nearest clinical trial to his or her home for the immediately life-threatening disease or condition identified in paragraph (1) within one week of completion of the clinical trial application process, or, in the treating physician's medical judgment, it is unreasonable for the patient to participate in that clinical trial due to the patient's current condition and stage of disease.

(4) Has received a recommendation from his or her primary physician and a consulting physician for an investigational drug, biological product, or device.

(5) Has given written informed consent for the use of the investigational drug, biological product, or device, or, if he or she lacks the capacity to consent, his or her legally authorized representative has given written informed consent on his or her behalf.

(6) Has documentation from his or her primary physician and a consulting physician attesting that the patient has met the requirements of this subdivision.

(c) "Health benefit plan" means a plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. "Health benefit plan" includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in Section 1345, and a policy of health insurance, as defined in Section 106 of the Insurance Code, issued by a health insurer.

(d) "Immediately life-threatening disease or condition" means a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months.

(e) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the United States Food and Drug Administration, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration.

(f) "Primary physician" means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act.

(g) "State regulatory board" means the Medical Board of California or the Osteopathic Medical Board of California.

(h) (1) "Written, informed consent" means a written document that has been approved by the primary physician's institutional review board or an accredited independent institutional review board, is signed by an eligible patient, or his or her legally authorized representative when the patient lacks the capacity to consent, and attested to by the patient's primary physician and a witness that, at a minimum, does all of the following:

(A) Explains the currently approved products and treatments for the immediately life-threatening disease or condition from which the patient suffers.

(B) Attests to the fact that the patient, or when the patient lacks the capacity to consent his or her legally authorized representative, concurs with the patient's primary physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life.

(C) Clearly identifies the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

(D) Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and describes the most likely outcome. This description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the primary physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.

(E) Clearly states that the patient's health benefit plan, if any, and health care provider are not obligated to pay for the investigational drug, biological product, or device or any care or treatments consequent to use of the investigational drug, biological product, or device.

(F) Clearly states that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and that care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements.

(G) Clearly states that in-home health care may be denied if treatment begins.

(H) States that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device, and that this liability extends to the patient's estate, except as otherwise provided in the patient's health benefit plan or a contract between the patient and the manufacturer of the drug, biological product, or device.

(2) Written, informed consent for purposes of this article shall be consistent with the informed consent requirements of the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

(Added by Stats. 2016, Ch. 684, § 1 (AB 1668), eff. January 1, 2017.)

§ 111548.2 Right to Try Act—Manufacturer of an Investigational Drug, Biological Product or Device

(a) Notwithstanding Section 110280, 111520, or 111550, a manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to an eligible patient pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient.

(b) A manufacturer may do both of the following:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2) Require an eligible patient to pay the costs of, or associated with, the manufacture of the investigational drug, biological product, or device.

(c) (1) This article does not expand the coverage provided under Sections 1370.4 and 1370.6 of this code, Sections 10145.3 and 10145.4 of the Insurance Code, or Sections 14087.11 and 14132.98 of the Welfare and Institutions Code.

(2) This article does not require a health benefit plan to provide coverage for the cost of any investigational drug, biological product, or device, or the costs of services related to the use of an investigational drug, biological product, or device under this article. A health benefit plan may provide coverage for an investigational drug, biological product, or device made available pursuant to this section.

(d) If the clinical trial for an investigational drug, biological product, or device is closed due to the lack of efficacy or for toxicity, the investigational drug, biological product, or device shall not be offered. If notice of closure of a clinical trial is given for an investigational drug, biological product, or device taken by a patient outside of a clinical trial, the manufacturer and the patient's primary physician shall notify the patient of the information from the safety committee of the clinical trial.

(e) If an eligible patient dies while being treated by an investigational drug, biological product, or device made available pursuant to this article, the patient's heirs and health benefit plan, except to the extent the plan provided coverage pursuant to paragraph (2) of subdivision (c), are not liable for any outstanding debt related to the treatment or lack of insurance for the treatment.

(Added by Stats. 2016, Ch. 684, § 1 (AB 1668), eff. January 1, 2017.)

§ 111548.3 Right to Try Act—State Regulatory Board Disciplinary Action

(a) Notwithstanding any other law, a state regulatory board shall not revoke, fail to renew, or take any other disciplinary action against a physician's license based on the physician's recommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device if the recommendation or prescription is consistent with protocol approved by the physician's institutional review board or an accredited independent institutional review board.

(b) The physician's institutional review board or an accredited institutional review board shall biannually report the following information to the State Department of Public Health, the Medical Board of California, and the Osteopathic Medical Board of California:

(1) The number of requests made for an investigational drug, biological product, or device.

(2) The status of the requests made.

(3) The duration of the treatment.

(4) The costs of the treatment paid by eligible patients.

(5) The success or failure of the investigational drug, biological product, or device in treating the immediately life-threatening disease or condition from which the patient suffers.

(6) Any adverse event for each investigational drug, biological product, or device.

(c) A state agency shall not alter any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care provider's certification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health care provider that a patient have access to an investigational drug, biological product, or device.

(d) A violation of this section shall not be subject to Chapter 8 (commencing with Section 111825).

(Added by Stats. 2016, Ch. 684, § 1 (AB 1668), eff. January 1, 2017.)

§ 111548.5 Right to Try Act—Private Cause of Action

This article does not create a private cause of action, and actions taken pursuant to this article shall not serve as a basis for a civil, criminal, or disciplinary claim or cause of action, including, but not limited to, product liability, medical negligence, or wrongful death, against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient for harm done to the eligible patient or his or her heirs resulting from the investigational drug, biological product, or device, or the use or nonuse thereof, if the manufacturer or other person or entity has complied with the terms of this article in relation to the eligible patient, unless there was a failure to exercise reasonable care.

(Added by Stats. 2016, Ch. 684, § 1 (AB 1668), eff. January 1, 2017.)

§ 114872 Fluoroscopy Permit

(a) The department shall issue a licentiate fluoroscopy permit to a qualified licentiate of the healing arts, as defined in paragraph (2) of subdivision (h) of Section 114850. Notwithstanding any other provision of law, the department shall accept applications for a fluoroscopy permit from a licensed physician assistant who meets the requirements of this section.

(b) A physician and surgeon may delegate to a licensed physician assistant procedures using fluoroscopy. In order to supervise a physician assistant in performing the functions authorized by the Radiologic Technology Act (Section 27), a physician and surgeon shall either hold, or be exempt from holding, a licentiate fluoroscopy permit required to perform the functions being supervised.

(c) A physician assistant to whom a physician and surgeon has delegated the use of fluoroscopy shall demonstrate successful completion of 40 hours of total coursework, including fluoroscopy radiation safety and protection, recognized by the department. Documentation of completed coursework shall be kept on file at the practice site and available to the department upon request.

(d) Nothing in this section shall be construed to remove the need for a physician assistant to pass a department-approved examination in fluoroscopy radiation safety and protection pursuant to Article 1 (commencing with Section 30460) of Group 5 of Subchapter 4.5 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(e) A licensed physician assistant who is issued a fluoroscopy permit pursuant to the requirements of this section shall, in the two years preceding the expiration date of the permit, earn 10 approved continuing education credits. The department shall accept continuing education credits approved by the Physician Assistant Committee.

(f) Nothing in this section shall be construed to authorize a physician assistant to perform any other procedures utilizing ionizing radiation except those authorized by holding a licentiate fluoroscopy permit.

(g) Nothing in this section shall be construed to remove the need for a physician assistant to be subject to the permit requirements approved by the department pursuant to Subchapter 4.5 (commencing with Section 30400) of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(h) The department may charge applicants under this section a fee in an amount sufficient, but not greater than the amount required, to cover the department's costs of implementing this section. The fees collected pursuant to this subdivision shall be deposited into the Radiation Control Fund established pursuant to Section 114980.

(Added by Stats. 2009, Ch. 434, § 3 (AB 356), eff. January 1, 2010.)

§ 120370 Educational and Child Care Facility Immunization Requirement

(a) (1) Prior to January 1, 2021, if the parent or guardian files with the governing authority a written statement by a licensed physician and surgeon to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician and surgeon does not recommend immunization, that child shall be exempt from the requirements of this chapter, except for Section 120380, and exempt from Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician and surgeon's statement.

(2) Commencing January 1, 2020, a child who has a medical exemption issued before January 1, 2020, shall be allowed continued enrollment to any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center within the state until the child enrolls in the next grade span.

For purposes of this subdivision, "grade span" means each of the following:

(A) Birth to preschool, inclusive.

(B) Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.

(C) Grades 7 to 12, inclusive.

(3) Except as provided in this subdivision, on and after July 1, 2021, the governing authority shall not unconditionally admit or readmit to any of those institutions specified in this subdivision, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized pursuant to Section 120335 or the parent or guardian files a medical exemption form that complies with Section 120372.

(b) If there is good cause to believe that a child has been exposed to a disease listed in subdivision (b) of Section 120335 and the child's documentary proof of immunization status does not show proof of immunization against that disease, that child may be temporarily excluded from the school or institution until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease.

(Amended by Stats. 2019, Ch. 281, § 1 (SB 714), eff. January 1, 2020.)

§ 120582 Expedited Partner Therapy

(a) Notwithstanding any other law, a physician and surgeon who diagnoses a sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, or recommended in the most recent federal Centers for Disease Control and Prevention guidelines for the prevention or treatment of sexually transmitted diseases, in an individual patient may prescribe, dispense, furnish, or otherwise provide,

including in a standing order, prescription antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. This practice shall be known as expedited partner therapy (EPT). The department may adopt regulations to implement this section.

(b) Notwithstanding any other law, a nurse practitioner pursuant to Section 2836.1 of the Business and Professions Code, a certified nurse-midwife pursuant to Section 2746.51 of the Business and Professions Code, and a physician assistant pursuant to Section 3502.1 of the Business and Professions Code may include EPT in their practice by dispensing, furnishing, or otherwise providing, including through a standing order, prescription antibiotic drugs to the sexual partner or partners of a patient with a diagnosed sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, or recommended in the most recent federal Centers for Disease Control and Prevention guidelines for the prevention or treatment of sexually transmitted diseases, without examination of the patient's sexual partner or partners.

(c) If a health care provider does not have the name of a patient's sexual partner for a drug prescribed pursuant to subdivision (a) or (b), the prescription shall include the words "expedited partner therapy" or the letters "EPT."

(d) A health care provider shall not be liable in a medical malpractice action or professional disciplinary action if the health care provider's use of EPT is in compliance with this section, except in cases of intentional misconduct, gross negligence, or wanton or reckless activity.

(e) Medi-Cal coverage of expedited partner therapy pursuant to this section shall be implemented only to the extent that the State Department of Health Care Services obtains any necessary federal approvals and federal financial participation is available and not jeopardized.

(Amended by Stats. 2021, Ch. 486, Sec. 4. (SB 306) Effective January 1, 2022.)

§ 120685 Prenatal Syphilis Screening and Testing

(a) Every licensed health care professional engaged in providing prenatal care or attending a birthing patient at the time of delivery, shall provide syphilis screening and testing as outlined in the most recent guidelines published by the State Department of Public Health.

(b) This section does not limit a local health jurisdiction's ability to provide additional recommendations or guidelines for syphilis screening and testing, nor does it limit the ability of a health care professional to follow other existing clinical guidelines for syphilis screening and testing recommendations, including guidelines issued by local health authorities, as long as, at minimum, the health care professional complies with subdivision (a).

(Amended by Stats. 2021, Ch. 486, Sec. 5. (SB 306) Effective January 1, 2022.)

§ 122318 Emotional Support Dog

(a) A health care practitioner shall not provide documentation relating to an individual's need for an emotional support dog unless the health care practitioner complies with all of the following criteria:

(1) Possesses a valid, active license and includes the effective date, license number, jurisdiction, and type of professional license in the documentation.

(2) Is licensed to provide professional services within the scope of the license in the jurisdiction in which the documentation is provided.

(3) Establishes a client-provider relationship with the individual for at least 30 days prior to providing the documentation requested regarding the individual's need for an emotional support dog.

(4) Completes a clinical evaluation of the individual regarding the need for an emotional support dog.

(5) Provides a verbal or written notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(b) For purposes of this section, "health care practitioner" means a person who is licensed and regulated pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who is acting within the scope of practice of the person's license or certificate.

(c) A health care practitioner may be subject to discipline from the health care practitioner's licensing board for a violation of this section.

(Added by Stats. 2021, Ch. 168, Sec. 1. (AB 468) Effective January 1, 2022.)

§ 123111 Patient Access to Health Records

(a) A patient who inspects his or her patient records pursuant to Section 123110 has the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient requests the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum if the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (i) of Section 123110 and Section 123120 are applicable with respect to any violation of this section by a health care provider.

(Amended by Stats. 2018, Ch. 275, § 1 (AB 2088), eff. January 1, 2019.)

Article 2.5 Reproductive Privacy Act

§ 123460 Short Title

This article shall be known and may be cited as the Reproductive Privacy Act.

(Added by Stats. 2002, Ch. 385, § 8, eff. January 1, 2003.)

§ 123462 Legislative Findings and Declarations

The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

(Added by Stats. 2002, Ch. 385, § 8, eff. January 1, 2003.)

§ 123464 Definitions

The following definitions shall apply for purposes of this chapter:

(a) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(b) "Pregnancy" means the human reproductive process, beginning with the implantation of an embryo.

(c) "State" means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.

(d) "Viability" means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus' sustained survival outside the uterus without the application of extraordinary medical measures.

(Amended by Stats. 2003, Ch. 62, § 198, eff. January 1, 2004.)

§ 123466 Denial or Interference with a Woman's Right

The state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

(Added by Stats. 2002, Ch. 385, § 8, eff. January 1, 2003.)

§ 123468 Unauthorized Abortions; Determination

The performance of an abortion is unauthorized if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

(Amended by Stats. 2013, Ch. 662, § 4 (AB 154), eff. January 1, 2014.)

§ 123640 Maternal Mental Health

(a) A licensed health care practitioner who provides prenatal, postpartum, or interpregnancy care for a patient shall ensure that the mother is offered screening or is appropriately screened for maternal mental health conditions.

(b) This section shall not apply to a licensed health care practitioner when providing emergency services or care, as defined in Section 1317.1.

(c) This section does not preclude any licensed or certified provider acting within their scope of practice from screening for maternal mental health conditions.

(d) For purposes of this section, the following definitions apply:

(1) "Health care practitioner" means a physician and surgeon, naturopathic doctor, nurse practitioner, physician assistant, nurse midwife, or a midwife licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or an initiative act referred to in that division and who is acting within their scope of practice.

(2) "Maternal mental health condition" means a mental health condition that occurs during pregnancy, the postpartum period, or interpregnancy and includes, but is not limited to, postpartum depression.

(Amended by Stats. 2021, Ch. 535, Sec. 1. (AB 1477) Effective January 1, 2022.)

Excerpts from the California Labor Code

§ 3209.10 Workers' Compensation

(a) Medical treatment of a work-related injury required to cure or relieve the effects of the injury may be provided by a state licensed physician assistant or nurse practitioner, acting under the review or supervision of a physician and surgeon pursuant to standardized procedures or protocols within their lawfully authorized scope of practice. The reviewing or supervising physician and surgeon of the physician assistant or nurse practitioner shall be deemed to be the treating physician. For the purposes of this section, "medical treatment" includes the authority of the nurse practitioner or physician assistant to authorize the patient to receive time off from work for a period not to exceed three calendar days if that authority is included in a standardized procedure or protocol approved by the supervising physician. The nurse practitioner or physician assistant may cosign the Doctor's First Report of Occupational Injury or Illness. The treating physician shall make any determination of temporary disability and shall sign the report.

(b) The provision of subdivision (a) that requires the cosignature of the treating physician applies to this section only and it is not the intent of the Legislature that the requirement apply to any other section of law or to any other statute or regulation. Nothing in this section implies that a nurse practitioner or physician assistant is a physician as defined in Section 3209.3.

(Amended by Stats. 2004, Ch. 100, § 1, eff. January 1, 2005.)

Excerpts from the California Penal Code

§ 11160 Injuries by Firearms; Assaultive or Abusive Conduct

(a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) A person suffering from a wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A person suffering from a wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4), and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" does not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" includes any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261 or former Section 262.

(15) Procuring a person to have sex with another person, in violation of Section 266, 266a, 266b, or 266c.

(16) Child abuse or endangerment, in violation of Section 273a or 273d.

(17) Abuse of spouse or cohabitant, in violation of Section 273.5.

(18) Sodomy, in violation of Section 286.

(19) Lewd and lascivious acts with a child, in violation of Section 288.

(20) Oral copulation, in violation of Section 287 or former Section 288a.

(21) Sexual penetration, in violation of Section 289.

(22) Elder abuse, in violation of Section 368.

(23) An attempt to commit any crime specified in paragraphs (1) to (22), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose the employee's identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

(i) For purposes of this section only, "employed by a local government agency" includes an employee of an entity under contract with a local government agency to provide medical services.

(Amended by Stats. 2021, Ch. 626, Sec. 63. (AB 1171) Effective January 1, 2022.)

§ 11161.5 Medical Crimes: Investigation and Prosecution

(a) It is the intent of the Legislature that on or before January 1, 2006, the California District Attorneys Association, in conjunction with interested parties, including, but not limited to, the Department of Justice, the California Narcotic Officers' Association, the California Police Chiefs' Association, the California State Sheriffs' Association, the California Medical Association, the American Pain Society, the American Academy of Pain Medicine, the California Society of Anesthesiologists, the California Chapter of the American College of Emergency Physicians, the California Medical Board, the California Orthopedic Association, and other medical and patient advocacy entities specializing in pain control therapies, shall develop protocols for the development and implementation of interagency investigations in connection with a physician's prescription of medication to patients. The protocols are intended to assure the competent review of, and that relevant investigation procedures are followed for, the suspected undertreatment, undermedication, overtreatment, and overmedication of pain cases. Consideration shall be made for the special circumstances of urban and rural communities. The investigation protocol shall be designed to facilitate communication between the medical and law enforcement communities and the timely return of medical records pertaining to the identity, diagnosis, prognosis, or treatment of any patient that are seized by law enforcement from a physician who is suspected of engaging in or having engaged in criminal activity related to the documents.

(b) The costs incurred by the California District Attorneys Association in implementing this section shall be solicited and funded from nongovernmental entities.

(Added by Stats 2004, Ch. 864, § 2, eff. January 1, 2005.)

§ 11165.7 Persons Authorized or Required to Report Child Abuse

(a) As used in this article, "mandated reporter" is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

(3) A teacher's aide or teacher's assistant employed by a public or private school.

(4) A classified employee of a public school.

(5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.

(6) An administrator of a public or private day camp.

(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

(8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.

(9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.

(10) A licensee, an administrator, or an employee of a licensed community care or child daycare facility.

(11) A Head Start program teacher.

(12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.

(13) A public assistance worker.

(14) An employee of a childcare institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

(15) A social worker, probation officer, or parole officer.

(16) An employee of a school district police or security department.

(17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.

(18) A district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed associate marriage and family therapist registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means a person who, for financial compensation, acts as a monitor of a visit between a child and another person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) An employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(36) A custodial officer, as defined in Section 831.5.

(37) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) An associate professional clinical counselor registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

(45) An individual certified by a licensed foster family agency as a certified family home, as defined in Section 1506 of the Health and Safety Code.

(46) An individual approved as a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code.

(47) A qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional, as defined in Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.

(48) A human resource employee of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code that employs minors. For purposes of this section, a "human resource employee" is the employee or employees designated by the employer to accept any complaints of misconduct as required by Chapter 6 (commencing with Section 12940) of Part 2.8 of Division 3 of Title 2 of the Government Code.

(49) An adult person whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace of a business subject to Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code is a mandated reporter of sexual abuse, as defined in Section 11165.1. Nothing in this paragraph shall be construed to modify or limit the person's duty to report known or suspected child abuse or neglect when the person is acting in some other capacity that would otherwise make the person a mandated reporter.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) (1) Except as provided in subdivision (d) and paragraph (2), employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(2) Employers subject to paragraphs (48) and (49) of subdivision (a) shall provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. The training requirement may be met by completing the general online training for mandated reporters offered by the Office of Child Abuse Prevention in the State Department of Social Services.

(d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a childcare licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child daycare facility shall take renewal mandated reporter training every two years following the date on which that person completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(f) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

(Amended by Stats. 2020, Ch. 243, Sec. 1. (AB 1963) Effective January 1, 2021.)

§ 11166 Persons Authorized or Required to Report Child Abuse—Method of Reporting

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in the mandated reporter's professional capacity or within the scope of the mandated reporter's employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written follow-up report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on the person's training and experience, to suspect child abuse or neglect. "Reasonable suspicion" does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any "reasonable suspicion" is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) A report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If, after reasonable efforts, a mandated reporter is unable to submit an initial report by telephone, the mandated reporter shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone follow-up call by the agency with which the mandated reporter filed the report. A mandated reporter who files a one-time automated written report because the mandated reporter was unable to submit an initial report by telephone is not required to submit a written follow-up report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written follow-up report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the statewide child welfare information system. The department shall work with stakeholders to modify reporting forms and the statewide child welfare information system as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the statewide child welfare information system is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) This section does not supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) A mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars ($1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals the mandated reporter's failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of the clergy member's church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of the clergy member's church, denomination, or organization, has a duty to keep those communications secret.

(2) This subdivision does not modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3) (A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in the clergy member's professional capacity or within the scope of the clergy member's employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse and that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) (1) A commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of that person's professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall, immediately or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a copy of the image or material attached.

(2) A commercial computer technician who has knowledge of or observes, within the scope of the technician's professional capacity or employment, any representation of information, data, or an image, including, but not limited to, any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or materials are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a brief description of the images or materials.

(3) For purposes of this article, "commercial computer technician" includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (43) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, "electronic medium" includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumb drive, or any other computer hardware or media.

(5) As used in this subdivision, "sexual conduct" means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of a person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, the mandated reporter makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom the person knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in the person's private capacity and not in the person's professional capacity or within the scope of the person's employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. An internal policy shall not direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee's identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) (1) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child that relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it that is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(Amended by Stats. 2022, Ch. 50, Sec. 10. (SB 187) Effective June 30, 2022.)

§ 13823.5 Medical Evidentiary Examinations for Sexual Assault

(a) The Office of Emergency Services, with the assistance of the advisory committee established pursuant to Section 13836, shall establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child sexual abuse, and the collection and preservation of evidence therefrom. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) (1) In addition to the protocol, the Office of Emergency Services shall develop informational guidelines, containing general reference information on evidence collection and examination of, and psychological and medical treatment for, victims of sexual assault and attempted sexual assault, including child sexual abuse.

(2) In developing the protocol and the informational guidelines, the Office of Emergency Services and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; qualified health care professionals, sexual assault forensic examiners, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) (1) The Office of Emergency Services, in cooperation with the State Department of Public Health and the Department of Justice, shall adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child sexual abuse. The form may be issued as a paper version, as an electronic version, or as both the paper and electronic versions. Electronic forms may include links to the California Victim Compensation Board to help patients apply for victim compensation.

(2) Each qualified health care professional who conducts an examination for evidence of a sexual assault or an attempted sexual assault, including child sexual abuse, shall use the standard form or forms adopted pursuant to this section, and shall make those observations and perform those tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

(3) The Office of Emergency Services shall make the standard form or forms available to every public or private general acute care hospital, as requested.

(4) The standard form shall be used to satisfy the reporting requirements specified in Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

(d) The Office of Emergency Services shall distribute copies of the protocol and the informational guidelines to every general acute care hospital, law enforcement agency, and prosecutor's office in the state.

(e) For the purposes of this chapter, the following definitions apply:

(1) "Qualified health care professional" means any of the following:

(A) A physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(B) A nurse, nurse practitioner, or certified nurse-midwife currently licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(C) A physician assistant currently licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code and working in consultation with a physician and surgeon currently licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(2) "Sexual assault forensic examiner" or "SAFE" means a qualified health care professional who has been trained on the standardized sexual assault forensic medical curriculum specified in this section and Sections 13823.6 to 13823.11, inclusive.

(Amended by Stats. 2024, Ch. 113, Sec. 1. (AB 2730) Effective January 1, 2025.)

§ 14235 Medical and Health Provider Firearms Education and Training

The Legislature finds and declares all of the following:

(a) California experiences unacceptably high rates of firearm-related death and injury. The Centers for Disease Control and Prevention reported 3,184 gun-related deaths in California in 2017: 1,610 suicides, 1,435 homicides, 86 deaths by legal intervention, 38 unintentional deaths, and 15 deaths of undetermined type.

(b) Mass shootings are changing the character of public life in the state. Since 1982, California has experienced 19 mass shootings, resulting in 137 total deaths. On November 11, 2018, a mass shooting at a nightclub in Thousand Oaks, California, resulted in 12 deaths.

(c) In 2010, the estimated cost of hospital and emergency department care for firearm-related injuries in California was one hundred twelve million dollars ($112,000,000), with Medi-Cal and other government payers responsible for 64 percent of those costs. These high costs occur even though most people who die from firearm-related injuries do so at the scene of the shooting and receive no medical care for their injuries.

(d) Medical costs are only a small proportion (approximately 2 percent) of total societal costs, which are driven primarily by losses in productivity and quality of life.

(e) Medical and mental health care providers are uniquely positioned to help prevent all forms of firearm-related harm. Through the course of their regular patient care, they have opportunities to identify people at risk for such harm, provide evidence-based counseling on risk reduction, and intervene in situations of imminent risk.

(f) On October 30, 2018, the American College of Physicians published an updated position paper with recommendations for reducing firearm injuries and deaths in the United States that "recommends a public health approach to firearms-related violence and the prevention of firearm injuries and deaths" and encourages physicians to "discuss with their patients the risks that may be associated with having a firearm in the home and recommend ways to mitigate such risks."

(g) Other organizations that have published statements identifying firearm-related harm as a health problem and recommending that medical and mental health professionals engage in efforts to prevent firearm-related harm as an element of their professional practice include the American Medical Association, the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Emergency Physicians, the American College of Surgeons, and the American Association of Suicidology.

(h) While many medical and mental health care providers recognize their responsibility to help prevent firearm-related injury and death, many cite lack of knowledge regarding when and how to counsel patients as a principal barrier to action. A position statement adopted by the California Medical Association Board of Trustees on July 28, 2017, states that "expanded education and training are needed to improve clinician familiarity with the benefits and risks of firearm ownership, safety practices, and communication with patients about firearm violence." The position statement further states that "medical schools and residency programs should incorporate firearm violence prevention into their academic curricula" and "California-specific resources such as continuing medical education modules, toolkits, patient education handouts, and clinical intervention information would help to address this practice gap."

(i) Having assembled a team of experts in firearm-related death and injury, and specifically in provider and patient education to prevent firearm-related harm, the University of California Firearm Violence Research Center at UC Davis is uniquely qualified to research, develop, implement, and evaluate education and training programs for medical and mental health care providers on preventing firearm-related death and injury.

(Added by Stats. 2019, Ch. 728, § 3 (AB 521), eff. January 1, 2020.)

§ 14236 Medical and Health Provider Firearms Education and Training Programs

(a) The California Firearm Violence Research Center at UC Davis shall develop multifaceted education and training programs for medical and mental health providers on the prevention of firearm-related injury and death.

(b) The center shall develop education and training programs that address all of the following:

(1) The epidemiology of firearm-related injury and death, including the scope of the problem in California and nationwide, individual and societal determinants of risk, and effective prevention strategies for all types of firearm-related injury and death, including suicide, homicide, and unintentional injury and death.

(2) The role of health care providers in preventing firearm-related harm, including how to assess individual patients for risk of firearm-related injury and death.

(3) Best practices for conversations about firearm ownership, access, and storage.

(4) Appropriate tools for practitioner intervention with patients at risk for firearm-related injury or death, including, but not limited to, education on safer storage practices, gun violence restraining orders, and mental health interventions.

(5) Relevant laws and policies related to prevention of firearm-related injury and death and to the role of health care providers in preventing firearm-related harm.

(c) The center shall launch a comprehensive dissemination program to promote participation in these education and training programs among practicing physicians, mental health care professionals, physician assistants, nurse practitioners, nurses, health professional students, and other relevant professional groups in the state.

(d) The center shall develop curricular materials for medical and mental health care practitioners in practice and in training, tailored to the profession and suitable for use through a variety of methods. Educators from the center shall provide didactic education in person and by remote link at medical education institutions, and recruit and train additional health professionals to provide such education.

(e) The center shall develop education and training resources on firearm-related injury and death, including but not limited to, continuing medical education videos, additional training modules, a website with current information on relevant research and legislation, and handouts and written materials for clinicians to provide to patients. The center shall serve as a resource for the many professional and educational organizations in the state whose members seek to advance their knowledge of firearm-related injury and death and effective prevention measures.

(f) The center shall conduct rigorous research to further identify specific gaps in knowledge and structural barriers that prevent counseling and other interventions, and to evaluate the education and training program. The center shall incorporate the research findings into the design and implementation of the program to support the mission of the center to deliver content to health care providers and patients that is effective in guiding clinical decisions and reducing firearm-related injury and death.

(Amended by Stats. 2021, Ch. 253, Sec. 7. (AB 173) Effective September 23, 2021.)

Excerpts from the California Vehicle Code

§ 12517.2 Vehicles: School Bus Drivers: Medical Report; Physical Examination

(a) Applicants for an original or renewal certificate to drive a school bus, school pupil activity bus, youth bus, general public paratransit vehicle, or farm labor vehicle shall submit a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine, a licensed advanced practice registered nurse qualified to perform a medical examination, or a licensed

physician assistant, or a licensed doctor of chiropractic listed on the most current National Registry of Certified Medical Examiners, as adopted by the United States Department of Transportation, as published by the notice in the Federal Register, Volume 77, Number 77, Friday, April 20, 2012, on pages 24104 to 24135, inclusive, and pursuant to Section 391.42 of Title 49 of the Code of Federal Regulations. The report shall be on a form approved by the department.

(b) School bus drivers, within the same month of reaching 65 years of age and each 12th month thereafter, shall undergo a medical examination, pursuant to Section 12804.9, and shall submit a report of that medical examination on a form as specified in subdivision (a).

(Amended by Stats. 2013, Ch. 160, § 1 (AB 722), eff. January 1, 2014.)

Excerpts from the Welfare and Institutions Code

§ 14132.966 The Medi-Cal Benefits Program

(a) Services provided by a physician assistant are a covered benefit under this chapter to the extent authorized by federal law and subject to utilization controls.

(b) Subject to subdivision (a), all services performed by a physician assistant within his or her scope of practice that would be a covered benefit if performed by a physician and surgeon shall be a covered benefit under this chapter.

(c) The department shall not impose chart review, countersignature, or other conditions of coverage or payment on a physician and surgeon supervising physician assistants that are more stringent than requirements imposed by Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code or regulations of the Medical Board of California promulgated under that chapter.

(Added by Stats. 2007, Ch. 376, § 7, eff. January 1, 2008.)

Excerpts from the Unemployment Insurance Code

§ 2708 Filing, Determination and Payment of Disability Benefit Claims

(a)(1) In accordance with the director's authorized regulations, and except as provided in subdivision (c) and Sections 2708.1 and 2709, a claimant shall establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner that establishes the sickness, injury, or pregnancy of the employee, or the condition of the family member that warrants the care of the employee. For subsequent periods of uninterrupted disability after the period covered by the initial certificate or any preceding continued claim, a claimant shall file a continued claim for those benefits supported by the certificate of a treating physician or practitioner. A certificate filed to establish medical eligibility for the employee's own sickness, injury, or pregnancy shall contain a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms.

(2) A certificate filed to establish medical eligibility of the employee's own sickness, injury, or pregnancy shall also contain a statement of medical facts, including secondary diagnoses when applicable, within the physician's or practitioner's knowledge, based on a physical examination and a documented medical history of the claimant by the physician or practitioner, indicating the physician's or practitioner's conclusion as to the claimant's disability, and a statement of the physician's or practitioner's opinion as to the expected duration of the disability.

(b) An employee shall be required to file a certificate to establish eligibility when taking leave to care for a family member with a serious health condition. The certificate shall be developed by the department. In order to establish medical eligibility of the serious health condition of the family member that warrants the care of the employee, the information shall be within the physician's or practitioner's knowledge and shall be based on a physical examination and documented medical history of the family member and shall contain all of the following:

(1) A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms.

(2) The date, if known, on which the condition commenced.

(3) The probable duration of the condition.

(4) An estimate of the amount of time that the physician or practitioner believes the employee needs to care for the child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.

(5)(A) A statement that the serious health condition warrants the participation of the employee to provide care for his or her child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.

(B) "Warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging "third party" care for the child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as well as directly providing, or participating in, the medical care.

(c) The department shall develop a certification form for bonding that is separate and distinct from the certificate required in subdivision (a) for an employee taking leave to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption.

(d) The first and any continuing claim of an individual who obtains care and treatment outside this state shall be supported by a certificate of a treating physician or practitioner duly licensed or certified by the state or foreign country in which the claimant is receiving the care and treatment. If a physician or practitioner licensed by and practicing in a foreign country is under investigation by the department for filing false claims and the department does not have legal remedies to conduct a criminal investigation or prosecution in that country, the department may suspend the processing of all further certifications until the physician or practitioner fully cooperates, and continues to cooperate, with the investigation. A physician or practitioner licensed by, and practicing in, a foreign country who has been convicted of filing false claims with the department may not file a certificate in support of a claim for disability benefits for a period of five years.

(e) For purposes of this part:

(1) "Physician" has the same meaning as defined in Section 3209.3 of the Labor Code.

(2)(A) "Practitioner" means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner, and in the case of a nurse practitioner, after performance of a physical examination by a nurse practitioner and collaboration with a physician and surgeon, or as to normal pregnancy or childbirth, a midwife or nurse midwife, or nurse practitioner.

(B) "Practitioner" also means a physician assistant who has performed a physical examination under the supervision of a physician and surgeon. Funds appropriated to cover the costs required to implement this subparagraph shall come from the Unemployment Compensation Disability Fund. This subparagraph shall be implemented on or before January 1, 2017.

(f) For a claimant who is hospitalized in or under the authority of a county hospital in this state, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by the hospital's registrar. For a claimant hospitalized in or under the care of a medical facility of the United States government, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by a medical officer of the facility duly authorized to do so.

(g) Nothing in this section shall be construed to preclude the department from requesting additional medical evidence to supplement the first or any continued claim if the additional evidence can be procured without additional cost to the claimant. The department may require that the additional evidence include any or all of the following:

(1) Identification of diagnoses.

(2) Identification of symptoms.

(3) A statement setting forth the facts of the claimant's disability. The statement shall be completed by any of the following individuals:

(A) The physician or practitioner treating the claimant.

(B) The registrar, authorized medical officer, or other duly authorized official of the hospital or health facility treating the claimant.

(C) An examining physician or other representative of the department.

(h) This section shall become operative on July 1, 2014.

(Amended (as added by Stats. 2013, § 2 Ch. 350, § 2) by Stats. 2014, Ch. 438, § 2 (SB 1083), eff. January 1, 2015.)

§ 14017 California Workforce Development Board

(a) In efforts to expand job training and employment for allied health professions, the California Workforce Development Board, in consultation with the Division of Apprenticeship Standards, shall do the following:

(1) Identify opportunities for "earn and learn" job training opportunities that meet the industry's workforce demands and that are in high road, high-demand jobs.

(2) Identify and develop specific requirements and qualifications for entry into "earn and learn" job training models.

(3) Establish standards for "earn and learn" job training programs that are outcome oriented and accountable. The standards shall measure the results from program participation, including a measurement of how many complete the program with an industry-recognized credential that certifies that the individual is ready to enter the specific allied health profession for which the individual has been trained.

(4) Develop means to identify, assess, and prepare a pool of qualified candidates seeking to enter "earn and learn" job training models.

(b) (1) The board, on or before December 1, 2015, shall prepare and submit to the appropriate policy committees of the Legislature a report on the findings and recommendations of the board.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on January 1, 2019, pursuant to Section 10231.5 of the Government Code.

(c) (1) The Department of Consumer Affairs shall engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in the allied health professions, including barriers identified in the report prepared by the board pursuant to subdivision (b), entitled Expanding Earn and Learn Models in the California Health Care Industry. The stakeholder process shall include all of the following:

(A) The department convening allied health workforce stakeholders, which shall include, but are not limited to, the department's relevant licensure boards, the Division of Apprenticeship Standards, representatives appointed by the board of governors from the California community college system, the California Workforce Development Board, and the State Department of Public Health, and which may include other relevant entities such as the Office of Statewide Health Planning and Development, employer and worker representatives, and community-based organizations.

(B) Addressing issues that include, but are not limited to, prelicensure classifications in allied health occupations that would allow students, in a supervised setting, to gain experience in their chosen field before obtaining licensure, and the payment of wages while in a workplace-based training program.

(C) The department ensuring that existing standards of consumer protection are maintained.

(D) Sharing any statutory barriers identified through this process with the relevant committees of the Legislature.

(2) The process described in paragraph (1) shall be completed by, and this subdivision shall be inoperative on, January 1, 2020.

(Amended by Stats. 2021, Ch. 78, Sec. 17. (AB 138) Effective July 16, 2021. See conditional termination clause in Section 14007.)

Excerpts from the Corporations Code

§ 13401.5 Licensees as Shareholders, Officers, Directors, or Employees

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation. This section does not limit employment by a professional corporation designated in this section to only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.

(8) Licensed chiropractors.

(9) Licensed acupuncturists.

(10) Naturopathic doctors.

(11) Licensed professional clinical counselors.

(12) Licensed physical therapists.

(13) Licensed pharmacists.

(14) Licensed midwives.

(15) Licensed occupational therapists.

(b) Podiatric medical corporation.

(1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(8) Licensed physical therapists.

(c) Psychological corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(10) Licensed professional clinical counselors.
(11) Licensed midwives.
(d) Speech-language pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech-language pathologists.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed professional clinical counselors.
(12) Licensed midwives.
(g) Marriage and family therapist corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(9) Licensed midwives.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage and family therapists.
(4) Registered nurses.
(5) Licensed chiropractors.

(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed professional clinical counselors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(5) Licensed midwives.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(k) Chiropractic corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists
(7) Licensed clinical social workers.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(10) Licensed professional clinical counselors.
(11) Licensed midwives.
(l) Acupuncture corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed physician assistants.
(9) Licensed chiropractors.
(10) Naturopathic doctors.

(11) Licensed professional clinical counselors.
(12) Licensed midwives.
(m) Naturopathic doctor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed physician assistants.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Licensed physical therapists.
(8) Licensed doctors of podiatric medicine.
(9) Licensed marriage and family therapists.
(10) Licensed clinical social workers.
(11) Licensed optometrists.
(12) Licensed professional clinical counselors.
(13) Licensed midwives.
(n) Dental corporation.
(1) Licensed physicians and surgeons.
(2) Dental assistants.
(3) Registered dental assistants.
(4) Registered dental assistants in extended functions.
(5) Registered dental hygienists.
(6) Registered dental hygienists in extended functions.
(7) Registered dental hygienists in alternative practice.
(o) Professional clinical counselor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Licensed marriage and family therapists.
(5) Registered nurses.
(6) Licensed chiropractors.
(7) Licensed acupuncturists.
(8) Naturopathic doctors.
(9) Licensed midwives.
(p) Physical therapy corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(5) Licensed occupational therapists.

(6) Licensed speech-language therapists.
(7) Licensed audiologists.
(8) Registered nurses.
(9) Licensed psychologists.
(10) Licensed physician assistants.
(11) Licensed midwives.
(q) Registered dental hygienist in alternative practice corporation.
(1) Registered dental assistants.
(2) Licensed dentists.
(3) Registered dental hygienists.
(4) Registered dental hygienists in extended functions.
(r) Licensed midwifery corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed marriage and family therapists.
(5) Licensed clinical social workers.
(6) Licensed physician assistants.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Licensed naturopathic doctors.
(10) Licensed professional clinical counselors.
(11) Licensed physical therapists.
(s) Occupational therapy corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(5) Licensed physical therapists.
(6) Licensed speech-language therapists.
(7) Licensed audiologists.
(8) Registered nurses.
(9) Licensed psychologists.
(10) Licensed physician assistants.
(11) Licensed midwives.
(12) Licensed clinical social workers.
(13) Licensed marriage and family therapists.
(14) Licensed occupational therapy assistants.

(Amended by Stats. 2022, Ch. 290, Sec. 7. (AB 2671) Effective January 1, 2023.)

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